

Kentucky Department for Environmental Protection



Strategic Operational Plan for State Fiscal Year 2011

Kentucky Energy and Environment Cabinet

July 2010

January 31, 2011 Status Updates



Department for Environmental Protection

Mission

Protect and enhance Kentucky's environment to improve the quality of life for all Kentuckians.

Vision

The Department for Environmental Protection envisions a healthy and productive commonwealth with balanced stewardship of the land, air and water where future generations enjoy an environment as good as or better than the present.

Principles

- **The department will make sound decisions that earn the public's trust.** The decisions made by the department will be prudent, defensible and consistent with the department's mission and in the best interest of the citizens of the commonwealth.
- **The department will focus on environmental results rather than programs or procedures.** The success of environmental programs will be measured in terms of achieving desirable environmental benefits, not in the number of staff or the size of budgets. We will evaluate programs and procedures in relation to their contribution to the mission.
- **The department will use good scientific information to aid in its decision making.** The foundation on which environmental protection programs are constructed is an understanding of the causes and effects resulting from actions that impact the environment. Scientific information is critical to the assessment and evaluation of existing environmental conditions and the determination of the effectiveness of our programs. We will employ generally accepted and applicable scientific methods and processes to accomplish our mission.
- **The department will consider the range of environmental benefits and consequences of proposed actions before making final decisions.** Good public policy encourages government agencies to promote actions that maximize benefits to society while minimizing adverse effects. While individual statutes, regulations, programs and organizational units may have a narrow focus, we will always consider the benefits and consequences of our actions to the environment as a whole.
- **The department will evaluate its performance using meaningful criteria.** We will require accountability from our managers, supervisors and staff in the continuing evaluation of program performance. We will gauge effectiveness based on actual program results.

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Message from the Commissioner



R. Bruce Scott, P.E.

The Department for Environmental Protection is pleased to present its Strategic Operational Plan for Fiscal Year 2011 (SFY2011).

As with previous agency operational plans, this document outlines the environmental strategies and measures that the department will use to achieve its goals and objectives for this fiscal year. This plan is designed to provide the citizens of Kentucky with a healthy and safe environment consistent with the department's mission of protecting and enhancing Kentucky's environment. The state's air, land and water resources are cleaner than anytime in the Commonwealth's recent history as a result of the programs administered by the agency.

However, as is the case with other areas of government and the private sector, the department continues to face significant budget reduction challenges requiring creative solutions to provide delivery of core agency services. FY2011 and FY2012 will be no exception as significant additional general fund reductions will be realized. Consequently, the department's ability to achieve the goals and objectives outlined in this plan are especially challenging in this biennium. It is a challenge, however, that the agency is prepared to meet.

An area that is particularly challenging in the context of this strategic operational plan is the department's ability to address the unprecedented regulatory and policy activities being initiated at the federal level. Federal regulatory and policy initiatives addressing greenhouse gases, carbon management, energy production, coal mining, water quality protection, and much more, directly or indirectly affect virtually every facet of the Kentucky economy and environment. Our plan reflects these new federal initiatives given the substantial allocation of agency resources that these activities demand. It is essential that Kentucky be prepared to appropriately respond to the shifting regulatory and political landscape in these vital areas affecting the Commonwealth.

The department has accomplished much in recent years. Our air has progressively gotten cleaner over the past several years. The number of contaminated land sources has decreased each year. The quality of our drinking water is among the nation's best and the number of citizens being served by water and sewer is greater than at anytime in our history. Yet, we still face enormous challenges in all of these areas. Challenges in many cases that require yet to be determined creative solutions.

This plan is just one step toward addressing those challenges. The agency realizes that it cannot accomplish these tasks alone. It will require the help, involvement, and partnership of our federal, state, local, private and citizen leaders. As our state motto states, "United We Stand, Divided We Fall". This "together we can" approach to solving today's issues is essential if Kentucky is to continue to move forward and be among the nation's leaders.

We hope that you find the SFY2011 Strategic Operational Plan to be useful and informative as we work together toward protecting and enhancing Kentucky's environment to improve the quality of life for all Kentuckians.

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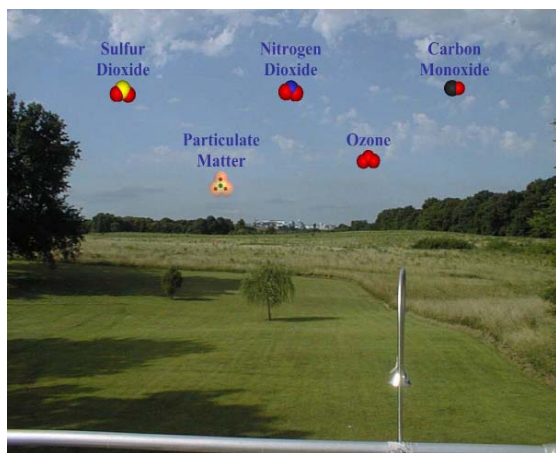
Goal 1



Clean Air

Protect human health and the environment by achieving and maintaining acceptable air quality.

Implementing and maintaining programs to achieve federal and state air quality standards in the Commonwealth of Kentucky is important to the health and wellness of all citizens across the state. The amount of air pollution released into the air by industry and transportation sources is monitored using a comprehensive program involving air quality monitoring, planning, construction and operation permitting and inspections.



Kentucky currently operates an air quality monitoring network composed of 140 monitors located in 29 counties. Air monitoring stations are selected using U.S. EPA guidance and are generally established near populous areas or pollutant sources. Station locations are reviewed annually to ensure adequate air quality monitoring coverage. Data from the network is used to demonstrate compliance with ambient air quality standards and identify pollution trends. This information is also used to provide pollutant levels for daily air quality index reporting and detect elevated pollutant levels for activation of emergency control procedures.

Creating effective partnerships with air pollution sources and the public enables the department to carry out its goal of protecting human health and the environment by achieving and maintaining acceptable air quality for all Kentuckians.

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Objective 1 - Eliminate DAQ permit backlog.

Tactic 1.1: Continue execution of the backlog reduction plan originally implemented on July 15, 2006.

Measures: The total number of permits pending.
The total number of permits pending that exceed regulatory timeframes.
The percentage of permit reviews completed within regulatory timeframes.
The percentage of permit reviews completed that exceed regulatory timeframe.

Baseline: The July 1, 2010 DAQ permit backlog.

Action 1.1.1: Obtain a zero backlog on all remaining applications beyond regulatory time frames by June 30, 2011.

Action 1.1.2: Continue utilization of TEMPO reporting to accurately track and report on measures.

Action 1.1.3: Continue to evaluate and implement streamlining opportunities to address process and institutional inefficiencies.

Action 1.1.4: Ensure that all permits are issued within regulatory time frames.

Action 1.1.5: Continue recruitment, program orientation and training to enhance retention of qualified staff.

Status: The Division's permit backlog percentage is around 12%. The goal of permitting continues to be to meet regulatory timeframe to the extent possible.

Various reports are utilized each month for tracking purposes. General permits are issued where applicable. Automated permitting documents have been developed. Measures are discussed, developed and implemented both as staff encounters problems and proactively.

Various tools including TEMPO reports and regularly scheduled workload reviews are used by section supervisors to facilitate staff in permit issuance.

Orientation is provided for new staff. Trainings are held for existing and new personnel as necessary.

Objective 2 - Protect and enhance Kentucky's air quality.

Tactic 2.1: Continue implementation of the air toxics program to evaluate and address any risks to public health associated with hazardous and toxic air pollutant emissions.

Measures: The total number of air toxics assessments reviewed and/or performed.
The total number of hazardous air pollutant related complaint investigations.

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The total tons of hazardous air pollutants reduced.

Baseline: Kentucky Emissions Inventory and the Federal Toxics Release Inventory (TRI) for calendar year 2009.

- Action 2.1.1:** Update the air toxics webpage to include data and parameters needed for modeling analysis by August 31, 2010.
- Action 2.1.2:** Develop specific work plans for each investigation pursued and document results in accordance with standard departmental protocols.
- Action 2.1.3:** Review and approve as appropriate, the University of Louisville's FY11 work plan for the West Jefferson County Air Toxics program, ensuring that it complements the state air toxics program.
- Action 2.1.4:** Finalize and release the updated risk assessment for the Calvert City project by December 31, 2010.
- Action 2.1.5:** Conduct short-term, special risk-based studies as necessary to address areas of concern indentified due to the presence of air toxics.
- Action 2.1.6:** Complete statistical analysis on all available data from all air toxics monitors by June 30, 2011.
- Action 2.1.7:** Reconfigure the ambient monitoring network to address trends-based air toxics studies as necessary, pursuant to the formal annual network review process in 40 CFR 58.10.

Status: The air toxics webpage has been updated to reflect requirements and useful links for Class I and II air dispersion modeling. In addition, the air toxics webpage also discusses the air toxics program, screening analyses, and other pertinent interests.

DAQ's Air Toxics Section has developed internal protocols related to investigations of air toxics. The section has performed 8 TAP-BACT risk assessments/reviews and 18 HAP related investigations over a screening level analysis in support of the Permit Review Branch. Screening analyses have been transferred to the section from all other sections within the Permit Review Branch. Higher-tiered modeling (AERMOD) for HAPs has resulted in permitting actions for 8 facilities. Stack testing and/or other permitting actions have been required as an outcome of risk assessment and/or HAPs investigation for 8 facilities. The Air Toxics Section has developed specific work plans for each investigation and documented results in accordance with standard departmental protocols.

The University of Louisville's FY11 Work Plan for the West Jefferson County Air Toxics program is currently under review in the Director's Office.

The Calvert City Risk Assessment was peer reviewed and the completed review was received on December 12, 2010. The peer review content is being integrated into the risk assessment and the

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assessment is consequently undergoing a full update. Thus the risk assessment remains in draft status.

From 2008 to 2009, the total HAP emissions for Kentucky were reduced by ~6300 tons. Some percentage of this reduction is undoubtedly due to the continued economic downturn. However, the reduction is also indicative of the effect the MACT standards, other regulations and the effect their implementation is having on HAP emissions.

A statistical analysis of the primary monitoring sites reporting VOCs and speciated metals was completed on September 1st, 2010. The analysis did not indicate any undue carcinogenic risks and hazards. This analysis will be repeated using newer data from FY2011.

The Covington air monitoring station – which included air toxics monitoring – was shutdown in June 2010. The parking lot at the Hankins Hall campus (NKU), where the site was located, was demolished this summer. It was determined during this new fiscal year, and approved by EPA on October 18, 2010, that the Covington station did not need to be re-established in another location in northern Kentucky. The DAQ Air Toxics Section reviewed all the ambient toxics data we had collected at this site over the years and found no reason why toxics monitoring should continue in Covington; there were no defined risks. Therefore, toxics monitoring in northern Kentucky has officially ended. This is the only change we have made to our air toxics network.

Tactic 2.2: Continue to implement measures contained in the June 2008 annual PM_{2.5} (15 ug/m³ averaged over a calendar 3-year period) attainment demonstration State Implementation Plan (SIP).

Measure: The number of counties remaining in non-attainment

Baseline: As of the end of 2009, all counties in Kentucky and contiguous surrounding states meet the current annual PM_{2.5} standard based on the 3-year average for the 2007-2009 period.

Action 2.2.1: Continue implementation of federal and state emission reduction strategies or programs to attain the fine particulate standard.

Action 2.2.2: Continue to administer SIP-approved programs implemented as part of historic control strategies designed to reduce emissions in areas with previous air quality problems.

Action 2.2.3: Develop redesignation requests in conjunction with surrounding states which share nonattainment areas with Kentucky.

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Action 2.2.4: Work with U.S. EPA to develop the above mentioned redesignation requests in lieu of the uncertainties surrounding the Clean Air Interstate Rule (CAIR) and its replacement.

Status: Kentucky's monitors and surrounding states' monitors show attainment of the standard. A redesignation request for the Cincinnati-Hamilton OH-KY-IN nonattainment area has been submitted to EPA and a public hearing to take comments was conducted on December 15, 2010. We are in discussions with Indiana, Ohio, and West Virginia to put together redesignation requests for the remaining nonattainment areas. However, EPA Region 4 has indicated that the uncertainty surrounding the reductions obtained as a result of the Clean Air Interstate Rule have posed challenges for EPA with regard to approval of certain air quality plans, and in particular plans related to PM_{2.5} standards. The first step has been taken which was for all states to request a clean data determination once their data was quality assured. If an area receives a clean data determination from EPA it will suspend the requirement for the area to submit the following: 1) an attainment demonstration and associated reasonably available control measures (including RACT), 2) reasonable further progress plan, 3) contingency measures and 4) any other planning state implementation plan requirements related to attainment of the NAAQS of concern. The division remains a participant with Southeastern Modeling, Analysis, and Planning (SEMAP) Project, the successor to VISTAS, for a new round of modeling and the development of control strategies for fine particulate matter.

Tactic 2.3: Develop recommendations to U.S. EPA for areas of Kentucky that do not meet the new 2010 8-hour ozone standard. Continue implementation of federal programs and requirements contained in the 1997 8-hour ozone attainment demonstration SIP, submitted to the U.S. EPA in December 2007.

Measure: The number of counties that are designated nonattainment based on the level at which U.S. EPA sets the 8-hour ozone standard August 31, 2010.

Baseline: The number of counties designated nonattainment for the 2010 8-hour ozone standard, which is dependent upon the level at which U.S. EPA sets the standard on August 31, 2010.

Action 2.3.1: Continue to administer SIP-approved programs implemented as part of historic control strategies designed to reduce emissions in areas with previous air quality problems.

Action 2.3.2: Continue to participate in regional modeling initiatives conducted by VISTAS and designed to provide information on 8-hour ozone control strategies.

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- Action 2.3.3:** Work with U.S. EPA to implement programs that are designed to address the new standard as contained in the new 8-hour ozone implementation rule.
- Action 2.3.4:** Conduct outreach and education during the winter/spring of 2011 in those communities expected to be impacted by a non-attainment designation.
- Action 2.3.5:** Begin development of required control strategy SIP as specified by the Clean Air Act according to the classification of each nonattainment area.
- Action 2.3.6:** Begin the development of the framework for an attainment demonstration for the 2010 8-hour ozone standard.

Status: In August 2010 the Northern Kentucky counties of Boone, Campbell, and Kenton were redesignated to attainment for the 1997 8-hour ozone standard. EPA requested an extension to July, 2011, to establish the new 8-hour ozone standard. Work continues to quantify and analyze emissions in areas that may be nonattainment based on the proposed range of 0.060-0.070 ppm. DAQ remains a participant with SEMAP, the successor to VISTAS, for a new round of modeling and development of control strategies for ozone precursors.

Tactic 2.4: Continue implementation of federal programs and requirements contained in the December 2007 Regional Haze SIP.

Measure: Improved visibility at Class I areas, including Mammoth Cave National Park, by EPA specified levels at interim deadlines and work toward long-range 2064 background visibility goals.

Baseline: 2000-2004 visibility levels.

Action 2.4.1: Continue to actively participate in regional modeling initiatives conducted by VISTAS to determine control strategies necessary to meet the federal visibility improvement requirements. Through continued participation with VISTAS, submit to EPA by December 2012 the initial five-year progress report on reasonable progress goals towards achieving natural visibility conditions for applicable Class I areas.

Action 2.4.2: Continue to participate in the Southeast Diesel Collaborative, specifically by dispersing grant money awarded to Kentucky for FY2010-2011 through the Diesel Emissions Reduction Act.

Status: The division submitted to EPA its formal Kentucky Regional Haze SIP on June 25, 2008. In addition, the division, after public comment, submitted to EPA on May 28, 2010, a minor revision to the June 25, 2008, Regional Haze SIP. DAQ remains an active participant in SEMAP, the successor to VISTAS, for a new round of modeling in 2010-2011 that will assist DAQ in tracking progress being made in

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improved visibility at Mammoth Cave National Park and other Class I areas.

The division continues to participate in the Southeast Diesel Collaborative (SEDC) as a charter member and was additionally selected by EPA Region 4 staff to serve on the SEDC's 2010-2011 Strategic Planning Committee. Beginning in FY2008, the SEDC began awarding annual Diesel Emissions Reduction Act (DERA) grant funds to the division, and in 2009 these funds were augmented by \$1.73 million in American Recovery and Reinvestment Act (ARRA) DERA grant funds. During FY2010-11, the division managed over 30 projects utilizing these grant funds, which resulted in the successful retrofit of 773 school buses and a reduction of 5.7 tons of particulate matter, 54.1 tons of hydrocarbons, and 106.8 tons of carbon monoxide. The division additionally issued a Request for Proposals (RFP) for the FY2010 DERA funds on October 5, 2010 and is currently in the process of awarding the \$235,000 in available funding to a local government agency for a retrofit project in their refuse hauler fleet.

Tactic 2.5: Submit recommendations to U.S. EPA by June, 2011, for any areas of the state that are violating the 2010 SO₂ standard which will be finalized June, 2010.

Measure: Number of counties in non-attainment.

Baseline: 3-year average for the 2008-2010 period.

Action 2.5.1: Conduct outreach and education during the fall/winter of 2011 in those communities expected to be impacted by a non-attainment designation.

Action 2.5.2: Begin development of required control strategy SIP as specified by the Clean Air Act according to the classification of each nonattainment area.

Action 2.5.3: Begin the development of the framework for an attainment demonstration for the 2010 SO₂ standard.

Status: Internal discussions have occurred between the monitoring staff and the program planning staff regarding the availability of data. The division is on track to make designations by June 2011.

Tactic 2.6: Determine mercury deposition and impacts resulting from emissions of mercury by Kentucky sources.

Action 2.6.1: Continue operation of the air monitoring network to determine ambient mercury levels.

Action 2.6.2: Continue operation of the mercury wet deposition network.

Action 2.6.3: Require mercury control and monitoring on all new electric generating units (EGUs).

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Action 2.6.4: Require EGUs to verify mercury emissions on their 2010 surveys.

Status: During this fiscal year, the decision was made to abolish the DAQ mercury monitoring network at all sites, which includes 5 continuous monitors and 4 wet deposition samplers. The Tekran continuous monitors do not speciate mercury, and therefore cannot distinguish between elemental, reactive gaseous and particle-bound mercury phases. In order to obtain the data needed to speciate mercury, additional equipment would need to be purchased for every mercury site, which is not feasible at this time. As all of these instruments are designated as special purpose monitors, approval from EPA to shutdown the sites is not needed. All sites were shut down by December 31, 2010.

There have been no new EGUs in the current fiscal year as of Dec. 15, 2010.

The division identified the available mercury emission factors for coal-fired EGUs as published in AP-42 and has populated the emissions inventory database with these values. During the 2010 Emissions Inventory survey process, facilities with coal-fired EGUs will have the opportunity to provide updated data to better estimate mercury emissions.

Tactic 2.7: Track U.S. EPA's development and implementation of the Greenhouse Gas Tailoring Rule and determine what requirements are applicable to Kentucky.

Measure: Tons of greenhouse gas emissions from emitted from various Kentucky sectors.

Baseline: Calendar year 2010 emissions inventory.

Action 2.7.1: Incorporate regulation into existing department regulations.

Action 2.7.2: Identify sectors emitting GHGs submit to the rule.

Action 2.7.3: Solicit permit applications for sources required by the rule.

Status: The division spent the early part of 2010 drafting amendments to KY's PSD regulations to incorporate the Greenhouse Gas/Tailoring Rule requirements into Kentucky law. Amendments to 401 KAR 51:001 and 52:001 were filed with the Legislative Research Commission on July 14, 2010. A public hearing was held in Frankfort on August 24, 2010. The division then filed a "Statement of Consideration and Amended After Comments" regulation on October 15, 2010. These regulations became effective in Kentucky on January 3, 2011.

The division began to include GHG pollutants and emissions starting with the 2010 Emission Inventory Surveys. Beginning in January,

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2011, any PSD or Title V permit applications for new sources, or modifications to existing sources, must include quantifiable emissions of GHGs.

Tactic 2.8: Operate an extensive, statewide ambient air monitoring network in order to ascertain the status of Kentucky's ambient air quality.

Measures: Number of air monitors in network based on population estimates.
Number of locations selected to represent population exposure.
Number of locations selected to represent background concentration levels.
Number of locations selected to represent regional transport of ambient air pollution.
Number of monitors and locations to represent source impacts.
Hours of continuous ambient air monitoring data collected.
Number of particulate matter, lead, and air toxics samples collected.
Concentrations of pollutants for which national ambient air quality standards have been established.
Concentrations of pollutants for which health-based risk standards have been determined.

Baseline: 2005-2010 Kentucky Electronic Data Acquisition Systems data and 2005-2010 Kentucky Air Quality System (AQS) data.

Action 2.8.1: Develop the ambient air monitoring network plan in accordance with 40 CFR 58.10 by July 1, 2011.

Action 2.8.2: Obtain hourly ambient air pollutant concentrations for ozone, sulfur dioxide, oxides of nitrogen, and mercury on a continuous basis using automated analyzers.

Action 2.8.3: Obtain hourly ambient air pollutant concentrations for particulate matter 2.5 microns in diameter or smaller (PM_{2.5}) on a continuous basis using automated samplers.

Action 2.8.4: Collect 24-hour samples for particulate matter (including PM_{2.5}, PM₁₀, and speciated PM_{2.5}), lead, and air toxics per the national USEPA Monitoring Schedule.

Action 2.8.5: Minimize data loss by ensuring that failed equipment is repaired or replaced within 5 business days after notification of instrument malfunction.

Action 2.8.6: Compile annual mean-concentration reports for each pollutant measured by May 1, 2011.

Status: By December 15, 2010, the Technical Services Branch (TSB) had completed its annual siting evaluation of each air monitoring sampler & station in the KYDAQ air monitoring network. The TSB is currently reviewing the deficiencies found during these siting evaluations and will take corrective action as part of the 2011 network plan.

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All ozone monitors in the network were shutdown in early November, upon completion of the KY ozone season (March 1 – October 31). All 2010 ozone data was reviewed and quality assured by mid-November, and entered into AQS.

To date, air monitoring data for all other monitored pollutants (with the exception of mercury data, which is housed internally) through September (3Q10) has been entered into AQS. The TSB is currently reviewing 4th quarter data. Annual mean-concentration reports will be compiled when all of the 2010 data has been quality assured and entered into AQS.

The TSB has continued to maintain and audit the instruments in the KYDAQ ambient air monitoring network; FOB personnel operate the instruments on a daily basis and collect field samples. Failed equipment has been repaired or replaced by the TSB within 5 business days.

Lead sampling officially began on July 13, 2010, at the Russell Springs site. All required lead monitors in the KDAQ network (Richmond, Catlettsburg, and Russell Springs) are now operational.

Tactic 2.9: Conduct quality measurement checks and data quality assessments on the ambient air monitoring network in order to ensure data accuracy & integrity.

Measures: Number of complete and current Quality Assurance Project Plans (QAPPs).
Number of complete and current standard operating procedures (SOPs).
Percentage of valid, quality-assured continuous ambient air monitoring data collected.
Percentage of valid, quality-assured particulate matter, lead, and air toxics samples collected.
Number of quality control checks performed on ambient air monitors.
Number of ambient air monitoring performance evaluations conducted.

Baseline: EPA's 2006-2009 Kentucky Technical Systems Audit Results.

Action 2.9.1: Review 100% of Division's air monitoring QAPPs on an annual basis.

Action 2.9.2: Review 100% of Division's air monitoring SOPs on an annual basis.

Action 2.9.3: Develop SOPs for new methods within 6 months of start-up.

Action 2.9.4: Maintain 75% data recovery for each calendar quarter for all instruments within the ambient air monitoring network.

Action 2.9.5: Conduct quality control precision checks on each automated analyzer that collects ozone at least once every two weeks, with results within $\pm 7\%$ difference.

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Action 2.9.6: Conduct quality control precision checks on each automated analyzer that collects SO₂ and NO_x data at least once every two weeks, with results within $\pm 10\%$ difference.

Action 2.9.7: Conduct quality control precision checks on each instrument that collects particulate matter samples at least once per month, with results within $\pm 4\%$ difference.

Status: The TSB has been reviewing and revising the Division's SOPs this year. Four revised SOPs were submitted to EPA during the September – November time period (including TEOM, PM_{2.5}, PM₁₀, and the weigh lab). A newly developed SOP for the MetOne 1020 BAM – completed within 6 months of start-up -- was submitted to EPA in October. All 5 of these SOPs have been approved by EPA.

Currently, the TSB is working on a revision to the lead SOP, with the goal of submitting that document to EPA in January. Additional SOPs are under review, with revisions forthcoming. The Criteria Pollutant QAPP is currently under revision as well, with a goal of submitting the document to EPA in January.

Excellent data recovery (greater than 90%) has been achieved by most analyzers and samplers in the network. Quality control checks have been performed every two weeks on the instruments within the KDAQ network. Whenever the quality control limits have not been achieved, the instruments have been recalibrated to ensure accuracy and data integrity.

Quality assurance audits have been conducted on all air monitoring instruments quarterly, which exceeds EPA requirements. Whenever an instrument has not met the required quality assurance limits, the instrument has been recalibrated.

The TSB will compile all quality assurance statistical analyses and reports for 2010 data after all data have been quality assured and entered into AQS. Afterwards, the annual certification of the pollutant data will occur.

Tactic 2.10: Assure compliance with air quality regulations and standards.

Measures: Number of major stationary source inspections conducted.
Number of minor stationary source inspections conducted.
Number of routine (non-complaint) asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) and Asbestos Hazard Emergency Response Act (AHERA) inspections conducted.
Number of asbestos NESHAP and AHERA complaint investigations conducted.

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Number of asbestos NESHAP notification investigations for existing Agency Interests (AIs).

Number of asbestos NESHAP notification investigations for non-Agency Interests.

Number of routine non-asbestos complaint investigations conducted.

Compliance rate of stationary source inspections.

Compliance rate of all incident investigations (AIs & non-AIs).

Compliance rate with 401 KAR 63:005 (open burning), 63:010 (fugitive emissions) and 401 KAR 53:010 (odor).

Compliance rate of NESHAP and AHERA-related inspections and investigations.

Baseline: SFY2006-SFY2010 trends data.

Action 2.10.1: Complete full compliance evaluations of all major stationary sources on a biennial basis.

Action 2.10.2: Initiate appropriate enforcement action on 100% of high priority violations (HPV as defined by EPA) within 60 days of discovery.

Action 2.10.3: Resolve 100% all violations within 90 days or refer to the Division of Enforcement.

Action 2.10.4: Complete inspection of 50% of NESHAP-regulated asbestos activities within the current fiscal year for which the division has received a required notification.

Action 2.10.5: Complete inspection of 20% of selected AHERA local education agencies (i.e. school districts) for the current fiscal year.

Status: Statistics for Field Operations Branch (FOB) are compiled on a calendar year basis. Through December 15, 2010, FOB completed 1758 inspections related to major sources. This compares to 1745 for 2009, 1417 for 2008, and 1268 inspections completed during 2007. Full compliance evaluations (FCE) were conducted at 445 of the 484 (91.9%) major sources during the last two year period (2009-10).

In 2010, 9 HPVs were discovered during inspections and enforcement action was initiated on all (100%) within 60 days of discovery.

FOB completed 1359 inspections related to minor sources in 2010. This compares to 1598 in 2009, 1211 in 2008, and 1033 inspections completed in 2007.

FOB completed 488 NESHAP and AHERA non-complaint inspections in 2010, as compared to 420 in 2009 and 256 in 2008. NESHAP and AHERA complaint investigations conducted in 2010 were 171, with 119 being conducted in 2009, and 126 in 2008. The 2010 NESHAP compliance rate was 87.25% while the AHERA compliance rate was 78.5%, as compared to 97.1% and 65.0% in 2009 and 81.2% and 64.4%, respectively for 2008.

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Sixty eight percent (68%) of NESHAP related activities were inspected in 2010. Of the 560 notifications received DAQ inspected 380 of the jobs. Seventy two percent (72%) of NESHAP related activities were inspected in 2009 (388 of 537) as compared to 47% (191 of 406) of notifications inspected in 2008.

FOB inspected 110 schools at 44 of the state's estimated 800 local education agencies (LEAs) from July to December of 2010. That's five and a half percent (5.5%) of AHERA LEAs inspected through the first half of the 2011 fiscal year (second half of the 2010 calendar year.) FOB inspected 123 schools at 57 of the state's estimated 800 LEAs in 2009. Seven percent (7.1%) of AHERA LEAs were inspected in 2009. In 2008, 59 schools at 29 different LEAs (3.3%) were inspected.

The percentage of all inspections and investigations with a rating of "in compliance" increased from 76% in 2007 to 81% in 2008, 86% in 2009, and 87% in 2010.

FOB staff completed 1452 routine non-asbestos complaint investigations as of 12/15/10 for calendar year 2010. There were 1317 non-asbestos complaints investigated during 2009, 1482 non-asbestos complaints investigated during 2008, and 1847 non-asbestos complaints investigated during 2007.

Open burning – For calendar year 2010 there were 283 NOVs and 68 LOWs issued. For 2009, 272 NOVs and 55 LOWs were issued; for 2008, 295 NOVs and 53 LOWs were issued, for 2007, 306 NOVs and 93 LOWs were issued. The number of citizen reports/complaints of open burning has decreased slightly since 2007.

Year – total complaints

2007 - 859

2008 - 763

2009 - 728

2010 - 712

Fugitive Emissions – For calendar year 2010 there were 105 NOVs and 20 LOWs issued. For 2009, 123 NOVs and 20 LOWs were issued, for 2008, 152 NOVs and 47 LOWs were issued, and for 2007, 339 NOVs and 85 LOWs were issued. The peak in fugitive emissions (dust) violations in 2007 is believed to be related to drought conditions that year that limited water available for dust suppression at many

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locations. Total number of reports/complaints received peaked in 2007 during the drought.

Year – total complaints

2007 – 434

2008 – 281

2009 - 257

2010 – 289

Odor violations - For calendar year 2010 there were 10 NOVs and no LOWs issued. For 2009, 2 LOWs and 10 NOVs were issued for odor violations; for 2008, 2 LOWs and 11 NOVs were issued; and for 2007, 1 LOW and 17 NOVs were issued. The number of odor related complaints varies slightly from year to year.

Year – total complaints

2007 – 359

2008 – 492

2009 – 345

2010 – 397

It should be noted that a majority of investigations regarding open burning, odor, and fugitive emissions are complaint-based. Therefore, violations are discovered at a much higher rate than on routine inspections.

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Goal 2



Clean and Safe Water

To manage, protect, and enhance the quality and quantity of the Commonwealth's water resources for present and future generations through voluntary, regulatory, and educational programs.



Kentucky has an abundance of water resources that provide important sources for public water systems, recreation and tourism, and economic opportunities. Managing and protecting the state's waters, including lakes, streams and rivers, as well as the water beneath the ground's surface, is imperative to ensure safe water for human health, the subsistence of important ecosystems, and the prospect of economic development. The department is responsible for regulating and monitoring the quality of drinking water, surface water and groundwater resources, and wastewater treatment systems across the state of Kentucky.

Effective regulatory oversight of water quality via federal and state regulations along with appropriate water quality criteria controls the amount of pollutants that can be discharged to water sources. Continuous improvement of water quality in Kentucky is achieved through permitting, compliance and inspection, monitoring, and other water quality improvement programs. Inspections of permitted facilities, in conjunction with collection and analysis of data from rivers, streams, lakes and wetlands throughout the state, enable the department to closely monitor the safety of the public's drinking water and the state's water resources.

The department not only protects the public's safety by regulating water quality, but also assists the federal government in the effort to protect Kentuckians from dam failures and flooding. Permits for construction, reconstruction, and repair of dams are issued by the department and regular inspections of dams are also conducted. The National Flood Insurance Program is administered by the department; the department also issues permits for construction on floodplains to prevent losses from flooding in Kentucky.

Through the support of regulatory, monitoring and water quality improvement programs, Kentucky's water resources are enhanced and protected for present and future generations.

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Objective 1 - Protect, manage and restore water resources.

Tactic 1.1: Develop and Implement Total Maximum Daily loads (TMDLs).

Measures: Number of impaired waters bypassed for TMDL development in FY 2011.
Number of permits that contain TMDL measures in FY 2011.

Baselines: Number of impaired waters bypassed for TMDL development in FY 2010.
Number of permits that contain TMDL measures in FY 2010.

Action 1.1.1: Implement protocols for the translation of TMDLs in permits by October 2010.

Action 1.1.2: Develop 100 approved TMDLs by June 2011.

Action 1.1.3: Identify impaired waters that are candidates for bypassing TMDL development June 2011.

Status: The Water Quality Branch (WQB) staff have begun to draft a procedure for incorporation of Total Maximum Daily Loads (TMDLs) into permits. The Surface Water Permit Branch (SWPB) already incorporated pathogen TMDLs by applying the water quality criteria at the discharge point.

Fifty-two percent of the TMDLs are currently being developed by DOW and third parties. These TMDLs are scheduled for completion and will go to public notice in January 2011. The additional forty-eight percent of TMDLs will be developed during January through July of 2011.

The WQB has begun work in conjunction with the Watershed Management Branch (WMB) on identification of candidate impaired waters for bypassing of TMDLs. A meeting was conducted with WMB representatives on identification of 305(B), category 4B water bodies (eligible for TMDL bypassing) in August 2010. EPA Region 4 recently recommended a new 5R Category for the bypassing of TMDL development in watersheds where stakeholders and effective watershed plans exist. This could cause a dramatic increase in removal candidate waters.

Tactic 1.2: Implement a Nutrient Criteria Strategy.

Measure: Percentage of data collected and analyzed for the development of nutrient criteria in FY 2010.

Baseline: The FY 2009 inventory of existing nutrient criteria data.

Action 1.2.1: Evaluate data, necessary for development of nutrient criteria by January 2011.

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- Action 1.2.2:** Finalize strategy regarding development of nutrient water-quality standards by August 2010.
- Action 1.2.3:** Outline issues regarding water-quality standards for nutrients by February 2011.
- Action 1.2.4:** Develop a public outreach approach and begin conducting public outreach regarding nutrients and water quality issues by June 2011.
- Action 1.2.5:** Participate in the Mississippi River – Gulf of Mexico Hypoxia Task Force and work toward implementing the Gulf Hypoxia Action Plan 2008.

Status: The first phase of data evaluation has been complete. A summary of nutrient data was completed in August 2010. From this summary analysis, bio-regions with nutrient criteria benchmarks were developed. Additional data is needed in the Inner Bluegrass Region.

The strategy for the development of nutrient water quality standards (numeric criteria) is progressing, but is not complete. We are evaluating the need for more monitoring data in the Inner Bluegrass region. We are also evaluating our “weight of evidence” approach. More importantly, we are monitoring the Florida lawsuit recently filed against EPA for EPA’s promulgation of numeric nutrient criteria. Many of the issues brought in the lawsuit are issues and concerns that we are facing as well.

Internal DOW stakeholder meetings have been conducted on nutrient criteria development since March 2010. Once the nutrient data summary was completed in August 2010, briefings were given to the Director’s Office and the Commissioner. Issues and challenges to development and implementation of nutrient numeric criteria are being identified. These issues and challenges are being used as part of the Nutrient Reduction Strategy as well.

With the ongoing development of the Nutrient Reduction Strategy of which nutrient criteria development is a component, public outreach is an integral part of this strategy. Opportunities for outreach have begun to manifest themselves through opportunities to speak at various conferences, annual meetings, and committees. Coordination with the Director’s Office has been ongoing. Coordination with the WMB (Non Point Source (NPS), NPS Management Grant, Groundwater, and Basin Coordinators) will begin in January 2011 as the next phase of the Nutrient Reduction Strategy.

DOW staff participated in a Task Force meeting in Tunica, MS in September where the cabinet committed to working toward the development of a statewide nutrient reduction strategy. DOW staff also participated in coordinating committee meetings (primarily

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teleconference calls) and in a meeting of the Monitoring Committee as well. The statewide nutrient reduction strategy approach was discussed with the Agriculture Water Quality Authority in an October meeting. DOW is also an active participant in the Mississippi River Basin Initiative (MRBI) in selected Kentucky watersheds.

Objective 2 – Conduct effective water resources planning

Tactic 2.1: Revise and update the guidance for Kentucky's Watershed Approach

Measures: Completion of the 2011 Nonpoint Source (NPS) Management Plan.
Completion of the 2011 Watershed Framework.

Baselines: 2000 NPS Management Plan.
Watershed Framework.

Action 2.1.1: Assemble stakeholder group to review and comment on the NPS Management Plan by September 2010.

Action 2.1.2: Perform internal assessment and review of the Watershed Framework by September 2010.

Action 2.1.3: Submit draft of updated NPS Management Plan to EPA by March 2011.

Action 2.1.4: Complete update of Watershed Framework by April 2011.

Action 2.1.5: Set up long term home for Kentucky Watershed Leadership Academy by June 2011.

Action 2.1.6: Promote and distribute the Kentucky Watershed Based Planning Guidebook by May 2011.

Status: A stakeholder group has been assembled to review the management plan and has begun commenting on the old plan. This action was completed on August 30, 2010.

An internal review of the Watershed Framework was completed by Basin Coordinators on August 18, 2010.

Progress continues on track with NPS Management Plan development.

Update of the Watershed Framework was originally planned to be completed before the revision of the NPS Management Plan, however, after discussions with EPA it was decided to postpone the update of the Framework until after completion of the Management Plan. This deadline will not be met and should be scheduled for some time in 2012.

DOW is currently in discussion with a long-term home for Kentucky Watershed Leadership Academy. This action is progressing on schedule to be completed by June 2011.

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The Watershed Planning Guidebook for Kentucky Communities is in the final stages of development. An electronic version should be available in December with print copies ready to distribute in the spring of 2011. This action should be completed ahead of schedule.

Tactic 2.2: Promote the EPA's Sustainable Infrastructure Initiative.

Measures: The number of dam safety inspections completed during the year.
The annual number of boil water advisories.
The number of SI outreach activities completed.
The number of projects approved that incorporated "green" methods or practices such as regionalization, water and energy conservation, etc.

Baseline: The corresponding numbers from 2010.

Action 2.2.1: Collaborate with key stakeholders from government, industry, and community groups to use their expertise in promoting sustainable water infrastructure.

Action 2.2.2: Conduct training and public outreach workshops around the state to explain the initiative to water and wastewater providers; discuss with utilities the available asset management tools; and provide them guidance on how to implement the sustainable infrastructure concepts by June 2011.

Action 2.2.3: Make additional revisions to the State Revolving Fund (SRF) project priority ranking systems to award more points to projects that implement sustainable concepts by January 2011.

Status: DOW allocated about \$200,000 from the drinking water small systems technical assistance fund to Kentucky Rural Water to work with small community-based drinking water systems to help them develop the necessary technical, financial, and managerial capacity so they can provide safe drinking water to their customers at an affordable cost.

Water Infrastructure Branch (WIB) staff presented sustainability concepts and encouraged their use at two water management council meetings. WIB conducted 84 Sanitary Surveys from July-December and presented information on EPA Sustainability Initiative during the surveys. WIB completed an informational compact disc and have begun distribution of the disc at Sanitary Surveys and during meetings with the regulated entities. The discs contain a variety of up-to-date reference materials and technical assistance tools that should prove useful to drinking water systems.

The SRF priority ranking system was revised last year to incorporate points for implementing sustainable concepts. This year we streamlined the project questionnaire submission process and incorporated the entire form into the Water Resource Information

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System profile. This action will allow us to transition to an electronic submission process in the future.

Tactic 2.3: Plan for sustainable infrastructure.

Measures: The number of facility plans reviewed and approved.
The number of environmental information documents reviewed and approved.
The number of projects approved that incorporated “green” methods or practices such as regionalization, wastewater reuse, as well as water and energy conservation.

Baseline: The corresponding numbers from 2010.

Action 2.3.1: Participate in the Area Development District Water Management Planning Council meetings to assist with planning future water infrastructure.

Action 2.3.2: Develop and implement a strategy to encourage wastewater systems to evaluate the applicability of using onsite and decentralized wastewater treatment systems to meet their current and future wastewater needs.

Action 2.3.3: Develop and implement a strategy to encourage water and wastewater systems to plan on watershed basis to protect water quality and reduce the cost of building infrastructure.

Action 2.3.4: Identify and recommend innovative uses of the drinking water SRF and set-asides that support the sustainable infrastructure initiative.

Action 2.3.5: Evaluate and provide recommendations regarding the relationships between floodplain permitting and dam safety.

Status: WIB assisted Kentucky Infrastructure Authority with developing a template for preparing (non-enforceable) wastewater infrastructure management plans that will help the Area Development Districts in planning wastewater projects.

The revised facility planning regulations strongly encourages all wastewater systems to consider using non-conventional wastewater treatment systems to meet the wastewater needs of the people who live in the remote parts of their service area.

A workgroup within the WIB met with representatives from the Watershed Management Branch as well as the division’s storm water coordinator in order to understand how the different planning processes within the Division are linked. Next, the workgroup will draft a strategy and present it to the division management team for approval.

The Drinking Water Capacity Development Section staff have attempted to move ahead with innovative use of SRF set-asides,

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however obstacles regarding Kentucky's procurement policy, and availability of funds have stalled our efforts.

The Director's Office will convene a workgroup in the next calendar quarter to develop recommendations.

Tactic 2.4: Participate in EPA Rule Making.

Measure: Rule development for federal or program areas.
Number of agency contacts with EPA on rule making.
Completion of a National Permit Discharge Elimination System (NPDES) pesticide permit by January 1, 2011.

Baseline: Number of agency contacts with EPA on rule making as of July 1, 2010.

Action 2.4.1: Participate in EPA storm water rule making.

Action 2.4.2: Participate in EPA pesticide NPDES rule making.

Action 2.4.3: Participate in EPA Confined Animal Feeding Operation rule making.

Status: DOW staff participated in early EPA surveys regarding stormwater rulemaking, and DOW personnel are currently reviewing and commenting on several EPA stormwater documents. DOW will continue to work with EPA and Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) in stormwater rulemaking discussions and commenting on rulemaking documents.

The SWPB has drafted a permit for discussion purposes based on the EPA draft permit which is beyond the public comment period. DOW has held one meeting with key stakeholders and is deciding how to modify the draft based on discussions during that meeting. The target date for issuance is March 2011.

DOW is awaiting action from EPA. Currently, EPA is awaiting a decision from the U.S. 5th Circuit Court on litigation from industry and environmental groups on the 2008 CAFO Rule regarding public notice requirements relative to nutrient management plans. EPA is working on the results of a settlement agreement relative to §308 rule by: 1) attempting to survey AFOs/CAFOs to better identify which operations may be discharging but not obtaining Clean Water Act §402 permits; and 2) considering regulations to redefine AFOs to CAFOs.

Objective 3 - Meet federal and state program requirements.

Tactic 3.1: Meet Federal grant and work plan requirements.

Measures: On-time submittal of all federal grant applications, work plans and reports.
Percentage of 106 work plan inspections conducted.

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Submittal of drinking water primacy packages with interim or final primacy granted.

Submittal of required primacy packages.

Number of scheduled sanitary surveys completed within the month assigned.

Implementation of Drinking Water State Revolving Fund (DWSRF) set-asides work plans.

Number of special appropriation projects inspected.

Number of American Recovery and Reinvestment Act (ARRA) projects inspected.

Baselines: FFY 2009 and 2010 Federal Commitments.

The number of scheduled sanitary surveys completed within the month assigned.

The number of Special Appropriations (SPAP) inspections completed in 2010.

The number of ARRA projects inspected in 2010.

Action 3.1.1: Submit work plans, grant applications, and all reports to EPA and Federal Emergency Management Agency (FEMA) within regulatory timeframes by July 2010.

Action 3.1.2: Develop Performance Partnership Grant (PPG) with EPA by October 2010 and implement PPG by November 2010.

Action 3.1.3: Complete drinking water Enforcement Management Strategy by September 2010.

Action 3.1.4: Develop the 2012 106 work plan commitments by September 2010.

Action 3.1.5: Submit the final 2011 106 work plan inspection commitments by July 31, 2010.

Action 3.1.6: Meet regulatory and primacy requirements and measures within associated federal timeframes.

Action 3.1.7: Complete stage 2 and Ground Water Rule (GWR) primacy packages by December 2010.

Action 3.1.8: Provide comment on the Revised Total Coliform Rule by February 2011.

Action 3.1.9: Submit DWSRF set-asides work plans to EPA within the timeframe defined in the MOA and track progress made on implementing the work plans.

Action 3.1.10: Conduct field inspections of projects that received special appropriation grants in accordance with the federal grant work plans.

Action 3.1.11: Conduct field inspections of projects that received financial assistance.

Action 3.1.12: Submit all federal grant applications, work plans and reports by date due.

Status: The Resource Planning and Program Support (RPPS) Branch submitted all work plans and grant applications to EPA and FEMA by the federal due dates. The RPPS Branch will submit all 2010 grant annual reports by the December 31, 2010 due date.

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The RPPS Branch developed and implemented the performance partnership grant in October 2010.

A final draft Enforcement Management Strategy was submitted to EPA Region 4 by September 1, 2010; comments are pending from the Region.

The RPPS Branch submitted the Clean Water 106 work plans and grant applications by the federal due date.

The 2011 106 work plan inspection commitments were submitted on time.

The drinking water program, in conjunction with the RPPS Branch, has completed 16 consecutive quarters of timely submissions of Safe Drinking Water Act activity updates to EPA Region 4. All drinking water measures are met through 3rd quarter 2010 (there is a 1 to 2 quarter lag at the federal EPA level in the calculation of compliance with the measures).

The Stage 2 Disinfection By-Product Rule primacy package was submitted to EPA in August 2010 and the Groundwater Rule package in October 2010. Interim primacy has been granted for both rules. KY DOW is now up-to-date with SDWA primacy packages.

DOW provided comment on the Revised Total Coliform Rule through the Association of State Drinking Water Administrators (ASDWA) by October 2010.

The RPPS Branch coordinated the development of the FFY 2010 Drinking Water State Revolving Loan Fund set-aside work plans in July 2010. They will be submitted to EPA when the grant is received.

WIB engineers inspected two special appropriation projects.

WIB engineers inspected 47 state revolving fund projects.

The RPPS Branch submitted all work plans and grant applications by the federal due dates. The RPPS Branch will submit all 2010 grant annual reports by the December 31, 2010 due date.

Tactic 3.2: Meet state requirements and maintain progress toward achieving and maintaining zero permit backlogs.

Measures: The total number of permits pending July 2011.

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The total number of permits pending that exceed regulatory timeframes by July 2011.

The total number of “major” facilities with permit applications that exceed regulatory timeframes by July 2011.

The number of general permits that have expired and not been issued or that have not been addressed by July 2011.

The number of general permit Notices of Intent (NOIs) for which coverage has not been issued or that have not been addressed by July 2011.

The percentage of permit reviews completed within regulatory timeframes during SFY 2011.

The percentage of permit reviews that exceed regulatory timeframes during SFY 2011.

Employee productivity rates for permitting, data entry and scanning during SFY 2011.

The percentage of construction plan approvals issued within the regulatory timeframe for drinking water facilities.

The percentage of clean water construction permits issued within the regulatory timeframe.

The percentage of dam safety construction permits issued within the regulatory timeframe.

The number of dam safety inspections conducted.

Expenditure of State-Owned Dam Repair (SODR) funds.

Number of coal Individual Permit (IP) and General Permit (GP) coverages issued without objection.

Baseline: The corresponding percentages from 2010.

The SFY 2010 DOW permit backlog.

SFY 2010 backlog percentages.

SFY 2010 employee productivity rates.

Number of coal IP and GP coverages issued without objection on July 1, 2010.

Action 3.2.1: Meet regulatory timeframes on permit issuances and plan reviews.

Action 3.2.2: Resolve oil and gas program.

Action 3.2.3: Implement SODR program strategies and projects.

Action 3.2.4: Issue remaining expired general permits by December 2010.

Action 3.2.5: Provide outreach to the regulated community regarding implementation of general permits by March 2011.

Action 3.2.6: Reconcile Permit Compliance System (PCS) and Tools for Environmental Management and Protection Organizations (TEMPO) for construction coverage's issued during SFY 2010 by September 2010.

Action 3.2.7: Maintain current and consistent implementation of the construction storm water program and provide determinations within 7 days of general permit NOIs by November 2010.

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Action 3.2.8: Issue permits for all “major” facilities that exceed the RTF by January 2011.

Action 3.2.9: Issue permits for all facilities that exceed the RTF by >1.5 years by September 2010.

Action 3.2.10: Resolve coal permitting issues with EPA.

Status: The first half of the state fiscal year has been marked with difficulty in negotiating Kentucky Pollutant Discharge Elimination System (KPDES) permits for coal mining operations. This activity is the subject of active litigation both with the Cabinet and EPA as well as private citizen groups. As a result the KPDES backlog has remained relatively steady (300 permits at the time of writing). It should also be noted that 55 of the backlogged applications are deficient, many being mining operations that are required to collect additional data to satisfy EPA.

The Wastewater Treatment Plant (WWTP) Construction permit program has no backlog.

Due to 2 major floods in CY2010, the backlog of applications for Floodplain Construction activities peaked at 152 in October of 2010. Today that backlog has been reduced to 33.

DOW will file 401 KAR 5:091, which repeals 401 KAR 5:090 related to the Oil and Gas program, following the 2011 legislative session.

Priority has been given to seven state-owned dams that do not meet their hazard class design requirements to upgrade the dams to meet engineering standards or mitigate the downstream risk. All funds in the State-Owned Dam Repair program have been assigned to specific projects and obligated to various phases of those projects.

There is a draft for the Drinking Water Activities General Permit. Other permits are still being evaluated and drafted. This effort has also affected the coal mining permit issues.

The Wet Weather Section of the SWPB has provided outreach on the Phase II Municipal Separate Storm Sewer System (MS4) permit which was re-issued in March 2010. Staff are actively engaged in supporting the Kentucky Stormwater Association in order to implement the new requirements of the permit. Other outreach will occur as the new permits are issued.

The RPPS Branch along with SWPB branch and DEP contractors are working to complete the transition from PCS to ICIS by March 2011.

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The current processing time for NOIs associated with construction activity is 6.09 days. We are meeting the obligations of this ongoing requirement/goal and this information is reported regularly in the 5 and 5 Division Reports.

According to data from PCS provided by EPA in October of 2010, there are 57 backlogged “major” KPDES permits.

According to data from PCS provided by EPA in October of 2010, there are 147 backlogged KPDES permits with fit into this category.

During this SFY, EPA has submitted 21 formal objections to draft coal permits and numerous comment letters. DOW has worked with EPA and the regulated community to develop permit conditions and language that is intended to address the objections. DOW will provide revised draft permits or other response for 11 of the 21 permits by December 31, 2010. Identification of approaches to implement with future coal permitting is anticipated to occur in the first quarter of 2011.

Objective 4: Promote better management and communication of data.

Tactic 4.1: Implement an integrated data management system for water quality data.

Measures: Gap analysis completed date.
Implementation of Kentucky Water Assessment Data Exchange (K-WADE).
Successful data exchange with EPA via K-WADE.

Baseline: Level of completion on July 1, 2010.

Action 4.1.1: Perform gap analysis with Acclaim by August 2010.

Action 4.1.2: Implement K-WADE and submit data to EPA using exchange network by March 2011.

Action 4.1.3: Create data exchanges with other data partners (e.g., Department for Natural Resources (DNR) for Coal Permit DMR data and cumulative hydrologic impact assessment (CHIA), Fish and Wildlife, etc...) by June 2011.

Status: The RPPS Branch along with division staff and Acclaim successfully performed the gap analysis for the K-Wade project in September 2010.

The RPPS Branch along with division staff and Acclaim are working to implement K-WADE by the March 2011 deadline.

The RPPS Branch along with division staff and Acclaim are working to implement K-WADE Phase II (partner data management) by the June 2011 deadline.

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Tactic 4.2: Implementation of Share Point to educate the public and assist regulated entities with compliance with program requirements.

Measure: Implementation of New DOW internet site.
Implementation of DEP eSearch portal public notice process.
Implementation of DOW intranet website.

Baseline: Level of completion on July 1, 2010.

Action 4.2.1: Finalize and implement New DOW internet site August 2010.

Action 4.2.2: Implement DEP eSearch portal public notice process August 2010.

Action 4.2.3: Develop and implement New DOW intranet website June 2011.

Status: The RPPS Branch met all deadlines associated with the development and implementation of the updated SharePoint internet website.

The RPPS Branch met all deadlines associated with the development and implementation of the eSearch portal public notice site.

The RPPS Branch developed and implemented the division intranet website on August 2010.

Tactic 4.3: Water Availability Tool for Environmental Resources Application (WATER) application implementation on Geographical Information System (GIS) Terminal Server.

Measure: WATER application implemented.

Baseline: WATER application not currently being implemented.

Action 4.3.1: Collaborate with United States Geological Survey (USGS) and General Administrative and Program Support (GAPS) to implement WATER application September 2010.

Action 4.3.2: Collaborate with USGS to enhance WATER application to further increase staff productivity June 2011.

Status: The RPPS Branch is working with USGS to resolve some issues that were identified during the initial test phase. These issues will need to be correct before implementation of the WATER application.

We continue working to enhance the WATER application. Currently the TMDL staff is using WATER; however, further implementation has been delayed pending the purchase of a server. It is anticipated that the new server will be in place by late January.

Tactic 4.4: Promote better decision making through GIS and Data Analysis.

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Measure: Number of staff receiving GIS training in 2011.
Number of Division approved SOPs for 2011.
Number of data analysis projects completed in 2011.

Baseline: Number of Division approved SOPs for 2010.

- Action 4.4.1:** Incorporate GIS into the review of Standard Operating Procedures (SOPs) for the Division by October 2010.
- Action 4.4.2:** Develop GIS training for managers and supervisors by January 2011.
- Action 4.4.3:** Conduct GIS training for managers and supervisors by June 2011.
- Action 4.4.4:** Develop audit procedures for review of SOPs by December 2010.
- Action 4.4.5:** Conduct training for staff regarding SOP development and the review process by April 2011.
- Action 4.4.6:** Develop process for providing sufficient quality assurance of Division products by December 2010.
- Action 4.4.7:** Develop a priority list of Division data to be analyzed by the GIS and Data Analysis Section by September 2010.
- Action 4.4.8:** Begin systematically analyzing data from current DOW databases by October 2010.
- Action 4.4.9:** Develop self-learning GIS modules for staff by June 2011.

Status: GIS incorporation into SOP review was completed in July 2010.

A presentation was made to the Peer-to-Peer Supervisor group in November 2010, and there are plans to meet with Branch Managers to discuss what is needed in management level GIS training. This is on schedule to meet the January deadline.

GIS training is in development and on schedule for completion by June 2011.

Audit procedures are being developed for SOPs; however, the deadline of December 2010 for completion may not be met. The QA officer for the division has been working on coal mining issues and has not been able to complete this task due to the new workload incurred. This should be completed by June 2011.

Training on SOP development and review is in development and on schedule for completion by April 2011.

The Quality Management Plan for the Department for Environmental Protection outlines what data quality is required for projects. It was updated and sent to EPA for review in October 2010. The response to comments is ongoing.

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The priority list was developed in September 2010 and completed according to schedule.

The GIS and Data Analysis section continues to work with conductivity and is analyzing the nutrient data according to the schedule as outlined by the WQB. This action was completed in October 2010.

Self learning modules are completed for GIS 101 and 102. A module is being developed for GIS 201. GIS and Data Analysis is also working with the RPPS to develop a Sharepoint site where all of the developed modules will be available to DOW staff. This action is progressing according to schedule.

Tactic 4.5: Transition from PCS to ICIS to improve permit compliance, tracking, and data analysis.

Measure: Implementation of ICIS.

Baseline: Current status of entering data into PCS

Action 4.5.1: Complete the transition from PCS to ICIS and begin to enter permit and compliance data into ICIS by June 2011.

Status: The RPPS Branch along with SWPB branch and DEP contractors are working to complete the transition from PCS to ICIS by March 2011.

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Goal 3



Waste Management & Land Restoration

Preserve and restore Kentucky's land through the development and implementation of fair, equitable and effective waste management programs.

The Department of Environmental Protection administers an array of programs to minimize ground contamination risks that may threaten the health, safety and environment of various life forms. These programs regulate and educate the public on issues concerning solid and hazardous waste management, site remediation at contaminated properties, underground storage tanks and recycling waste products.



Solid and hazardous wastes are managed through comprehensive permitting, registration, monitoring, reporting and training requirements. Additional methods such as promotion of solid and hazardous waste minimization, landfill inspections, public meetings and evaluation of waste streams ensure proper protection of our state's natural resources. The department also utilizes state and federal funds to support various programs, including the Hazardous Waste Management Fund, which

is funded through Hazardous Waste Assessment fees. This money is used to address environmental emergencies and to perform assessment and cleanup of abandoned contaminated sites that pose a serious threat to human health and the environment.

Assisting owners and operators with compliance of operational and maintenance requirements for underground storage tanks is a service provided by the department to prevent soil and groundwater contamination caused by releases from petroleum underground storage tanks. Additionally, the department provides for the abatement and control of contaminant risks associated with releases from underground storage tanks.

The department has various programs that encourage public participation to protect the environment by recycling and reducing waste in order to minimize the need for landfills, conserving energy and natural resources. These programs educate citizens and industry in environmentally friendly practices in the proper management of solid waste and stress the significant environmental and economical benefits of reducing, reusing and recycling materials.

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Objective 1 - Reduce and/or maintain elimination of DWM permit and data entry backlogs.

Tactic 1.1: Maintain progress towards reducing and/or maintaining zero permit and data entry backlogs.

Measures: The total number of permits pending.
The total number of permits pending which exceed regulatory timeframes.
The percentage of permit reviews completed within regulatory timeframes.
The percentage of permit reviews completed that exceed regulatory timeframe.

Baseline: The SFY2004 DWM permit backlog.

Action 1.1.1: Obtain a zero backlog on all remaining applications beyond regulatory time frames by June 30, 2011. The Hazardous Waste Branch is attempting to meet the GPRA goals by the end of FFY11.

Action 1.1.2: Maintain and enhance TEMPO reporting to accurately track and report on measures.

Action 1.1.3: Allocate staff as necessary to assist in permit review and data entry.

Action 1.1.4: Evaluate and implement additional streamlining opportunities to address process and institutional inefficiencies (example: continuously evaluate business processes to identify inefficiencies and implement effective alternatives).

Action 1.1.5: Enhance training and retention of qualified staff (example: more fully utilize employee recognition opportunities).

Action 1.1.6: Ensure that all permits are issued within regulatory timeframes.

Status: The total number of permits pending is equal to 50. The total number of permits pending which exceed regulatory timeframes is equal to 1. The percentage of permit reviews completed within regulatory timeframes is equal to 99%. The percentage of permit reviews completed that exceed regulatory timeframes is equal to 1%. The Hazardous Waste Branch has 10 pending permits, 6 which exceed regulatory timeframes.

Objective 2 - Protect human health and enhance Kentucky's land resources.

Tactic 2.1: Restore or manage contamination at sites with known or suspected releases to soil or groundwater.

Measures: The number of sites with known or suspected releases with potential human exposures where no further action is required or otherwise controlled as a result of implementing a management in place technique:
Number of underground storage tank cleanups conducted, remaining.
Number of hazardous waste program corrective actions completed, remaining.

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Number of historic landfills characterized, number remediated, remaining.

Number of illegal dumps remediated under the Kentucky PRIDE Program, remaining.

Number of State Superfund sites characterized, number remediated.

Number of State-Lead sites remediated utilizing the Hazardous Waste Management Fund.

Number of methamphetamine lab properties received and number released.

Number of emergency or incident responses made and number of cases closed.

Number of cleanups conducted under state oversight via the Voluntary Environmental Remediation Program (see also DCA Brownfields measure).

Baseline: SFY2004 inventory of existing sites.

Action 2.1.1: Maintain and enhance TEMPO reporting to accurately track and report on measures.

Action 2.1.1: Fully inventory the list of sites with known or suspected contamination.

Action 2.1.2: Identify resource and program constraints hindering achievement of our measures; pursue program changes and request funding as necessary in expansion budget (examples: potential environmental remediation fee increase and reallocation). At a minimum, work to maintain current level of funding in cleanup programs.

Action 2.1.3: Prepare draft legislative agenda to address any issues requiring legislative solutions and pursue enactment.

Action 2.1.4: Develop and/or amend regulations for Division programs to expedite cleanup progress in a protective manner to human health and the environment (examples: working on further revisions of UST regulations to modify September 2006 revisions and incorporate Energy Act requirements by mid-SFY11, drafting regulatory amendments to solid waste regulations for external review by early SFY11 to conform with federal and state statutes and to modify program procedures/requirements; and to update HW regulations to incorporate federal rulemaking finalized through July 1, 2010 if the reauthorization package is approved by EPA).

Action 2.1.5: Amend 401 KAR Chapter 42 to incorporate requirements for the investigation of indoor petroleum vapor issues. Maintain development of an overall program to coordinate actions and address these issues.

Action 2.1.6: Amend 401 KAR Chapter 42 to incorporate requirements for Operator Certification in conjunction with the federal Energy Act. These requirements will implement a site-specific approach to training and testing to support certification which will significantly aid in increased overall compliance and leak prevention.

Action 2.1.7: Engage in the employment of Federally Funded Time Limited (FFTL) staff members to fully utilize funding made available through the American Reinvestment and Revitalization Act to complete technical reviews and cleanups at contaminated UST facilities.

Department for Environmental Protection

Action 2.1.8: Review Standard Operating Procedures and guidance documents annually and update as necessary.

Status: The number of underground storage tank cleanups completed is 233, with 1,950 sites remaining to be cleaned. As new releases are reported or confirmed, the number of sites remaining to be remediated will change.

Corrective action reviews completed is equal to 99 with 22 remaining.

Historic landfills characterized is equal to 162, 18 have been remediated and 435 are remaining.

The number of illegal dumps remediated in CY2010 can not be determined until March of 2011.

Superfund Branch:

15 sites characterized

33 additional sites under management (Option B and Option C)

169 sites remediated (variable use of the HWMF to achieve this)(Option A)

9 non-UST petroleum sites remediated (Option A,B,C)

11 Superfund incident responses

11 Superfund incident responses closed (Option A,B,C)

97 new Superfund sites

32 referrals from other DEP branches

303 meth labs reported

87 meth labs decontaminated

There were 217 emergency or incident responses with 214 cases closed.

No sites entered the VERP nor were any closed under the VERP-update current through mid-year FY2011.

Tactic 2.2: Encourage reduced waste generation and disposal by promoting beneficial reuse, recycling, waste minimization, and pollution prevention.

Measures: The tons of solid and special waste recycled or reused, by type.
The tons of material recycled through the State Government Recycling program.
The number of waste tires used in tire-derived fuel projects, crumb rubber grants and other beneficial reuse purposes.
The tons of hazardous waste recycled or reused (example: mercury collection efforts).
The tons of waste recycled as a result of recycling grant program.

Department for Environmental Protection

Baseline: SFY2004 reported quantities of waste generation, disposal, reuse, and recycling.

Action 2.2.1: Maintain and enhance TEMPO reporting or other databases to accurately track and report on measures.

Action 2.2.2: Identify resource and program constraints hindering achievement of our measures; pursue program changes and request funding as necessary in expansion budget.

Action 2.2.3: Prepare draft legislative agenda to address any issues requiring legislative solutions and pursue enactment. (example: revision of the statutes relating to waste tires).

Action 2.2.4: Develop and/or amend regulations for Division programs to enhance and encourage beneficial reuse and recycling in a protective manner to human health and the environment (example: drafting regulatory amendments to 401 KAR 49:080 to incorporate provisions of 2006 SB50 by mid-SFY11; drafting regulatory amendments to 401 KAR 49:011 to streamline reporting requirements for counties; development of technical requirements for waste-to-energy projects; development of technical requirements for defining when a “recovered material” is exempt from being a solid waste).

Status: The tons of solid and special waste recycled or reused will be unavailable until March 2011.

The State Government Recycling program recycled 737 tons of material.

There were approximately 2 million tires that were used in tire-derived fuel projects, crumb rubber grants and other beneficial reuse purposes.

The number of solid, special and hazardous waste recycled or reused and the number of tons of waste recycled as a result of recycling grant programs will not be available until August of 2011.

Tactic 2.3: Assure proper management and disposal of waste.

Measures: The compliance rates for authorized solid waste management facilities.
The amount, by weight, of litter collected by counties through the Kentucky Pride program.

The compliance rates for authorized hazardous waste facilities.

The compliance rates for registered underground storage tanks.

Baseline: SFY2004 tonnages disposed; litter collected; compliance rates.

Action 2.3.1: Maintain and enhance TEMPO reporting to accurately track and report on measures.

Department for Environmental Protection

- Action 2.3.2:** Evaluate and implement streamlining opportunities to address process and institutional inefficiencies inhibiting compliance.
- Action 2.3.3:** Develop and/or amend regulations for Division programs to facilitate compliance with agency requirements (example: drafting regulatory amendments to 401 KAR 49:080 to incorporate provisions of 2006 SB50 by mid-SFY11, review 401 KAR Chapter 40 and draft regulatory amendments as necessary, draft regulatory amendments to 401 KAR Chapter 42 to incorporate the Energy Policy Act of 2005).
- Action 2.3.4:** Inspect regulated sites at established intervals to facilitate and ensure compliance with agency requirements.
- Action 2.3.5:** Increase communications between permitting central office staff and field operations staff. Take more opportunities for central office permitting staff to conduct site visits with field inspectors.
- Action 2.3.6:** Take enforcement action on regulated sites as necessary to facilitate and achieve compliance with agency requirements (working on methods to improve compliance rates for UST sites through direct compliance assistance efforts with tank owners and operators).
- Action 2.3.7:** Workgroup formed between Underground Storage Tank Branch and the Superfund Branch for addressing possible regulatory changes regarding increased use of bio-fuels, which may pose compatibility problems with existing UST system components.
- Action 2.3.8:** Review Standard Operating Procedures and guidance documents annually and update as necessary.

Status: The compliance rates of the following programs are as follows:
Solid waste management facilities = 72.1%
Hazardous waste facilities = 77.8%
Registered Underground Storage Tanks = 44.74%

The amount of litter collected by counties through the Kentucky Pride program will not be available until the spring of 2011.

Department for Environmental Protection

Goal 4



Environmental Compliance

Ensure environmental compliance using a clear and consistent approach of enforcement.

Proper enforcement stops violators from releasing illegal pollution into the air, water and onto the ground. In situations where federal and state environmental laws have been violated, enforcement ensures responsible parties are held accountable for the contamination of the environment. Responsible parties are directed to clean up contaminated property or reimburse the department for the cleanup.

The Division of Enforcement serves both compliance and enforcement functions. Through its Compliance and Operations Branch, the Division's compliance efforts focus on identifying violations, notifying the regulated entity of the violations and returning the regulated entity back to compliance through informal processes without the assessment of penalties. This is uniquely different from the responsibilities of the Civil Enforcement Branch, which focuses on addressing violations that have already been cited, following formal administrative processes to resolve the violations and routinely assessing civil penalties as a part of the resolution.

The enforcement process is conducted through referrals from either the Department's program divisions or internally from the Compliance and Operations Branch. When regulated entities fail to return to compliance through the compliance process, the referring party prepares, organizes and summarizes case-specific documentation and refers the violation to the Division of Enforcement's Civil Enforcement Branch for formal enforcement action.



Mid-Valley Pipeline Crude Oil Release, Owen County, January 2005

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Objective 1 - Facilitate the return of regulated entities to compliance with environmental statutes and regulations.

Tactic 1.1: Facilitate processes that result in the successful resolution of environmental enforcement cases.

Measure: The number of new cases received in the Division during the fiscal year.
Baseline: From July 2005 through March 2010, the Division has received an average of 34 new cases per month and an average of 408 new cases per fiscal year.

Measure: The number of cases closed by the Division during the fiscal year.
Baseline: From July 2005 through March 2010, the Division has closed an average of 37 cases per month and an average of 444 cases per fiscal year.

Measure: The total number of enforcement cases in the Division.
Baseline: From July 2005 through March 2010, the Division had an average of 1094 open enforcement cases. On 04/27/10, the Division had 975 open enforcement cases.

Measure: The number of cases open in the Division of Enforcement only for monitoring compliance with an agreed order or Secretary's order.
Baseline: From July 2005 through March 2010, the Division had an average of 265 enforcement cases open for monitoring and executed settlement document (Demand Letter, Agreed Order, Secretary's Order). On 04/27/10, the Division had 249 enforcement cases open for monitoring and executed settlement document.

Measure: The number of cases in the Division that are unassigned.
Baseline: In January 2008, the Division had 120 unassigned enforcement cases. On 04/27/10, the Division had 14 unassigned enforcement cases. Data developed prior to January 2008 is spurious.

Measure: The total amount of civil penalties collected and supplemental environmental projects imposed from enforcement cases during the fiscal year.
Baseline: From FY2000 through FY2009, the Division collected and average of \$1,973,903.70 in civil penalties per fiscal year.

Measure: The number of Agreed Orders signed by the responsible party in enforcement cases or cases otherwise resolved.
Baseline: From July 2005 through March 2010, the Division has received an average of 8 Agreed Orders signed by the responsible party per month and has received and average of 96 Agreed Orders signed by the responsible party per fiscal year.

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Measure: The number of Demand Letters or Settlement Letters issued per fiscal year.

Baseline: The use of Demand Letters to resolve enforcement cases was reinstituted in February 2008. From February 2008 through March 2010, the Division mailed an average of 5 Demand Letters to the responsible party per month and an estimated average of 96 Demand Letters to the responsible party per fiscal year.

Measure: The number of agreed orders and Administrative Orders signed by the Secretary in enforcement cases per year.

Baseline: From July 2005 through May 2008, an average of 11 Agreed Orders were executed per month and an average of 132 Agreed Orders were executed per year.

Action 1.1.1: Maintain and update protocols and the mechanisms necessary to implement timely and effective enforcement of environmental laws.

Action 1.1.2: Develop staff expertise in air, waste management and water programs to allow the Division to more effectively facilitate compliance with environmental laws.

Action 1.1.3: Work closely with program divisions to resolve enforcement cases in a timely and effective manner.

Action 1.1.4: Develop criteria and format for monthly reporting of Division activities and accomplishments to program divisions and Department and Cabinet management.

Action 1.1.5: Develop and implement criteria and mechanism for prioritizing enforcement cases to be referred to Cabinet attorneys for legal action.

Status: The Division of Enforcement (DENF) is currently performing above its baseline for the number of cases that are unassigned, the number of Agreed Orders signed by the responsible party, the number of demand letters executed, and the number of Administrative Orders signed by the Secretary. In July 2010, the Division had 10 unassigned cases. In January 2011, the Division had 94 unassigned cases. From July through December 2010, the Division had a total of 72 signed agreed orders with an average of receiving 12 signed agreed orders per month. Between July 2010 and December 2010, the Division issued 65 demand letters, with an average of 11 demand letters issued per month. From July 2010 through December 2010, the Cabinet Secretary signed 95 enforcement orders (90 DEP agreed order, 3 Office of General Counsel agreed orders, and 2 Secretary's Orders).

DENF is performing below its baseline in the total number of enforcement cases in the Division, the number of cases open in the Division for monitoring, and the amount of civil penalty collected. In July 2010, the Division had 964 open enforcement cases. In January 2011, the Division had 948 open enforcement cases. In July 2010, the

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Division had 230 cases open only for monitoring compliance with settlement documents. In January 2011, the Division had 255 cases open only for monitoring compliance with a settlement document. Between July 2010 and December 2010, the Division collected \$716,860.75 in civil penalties.

DENF is performing at or just below its baseline in the number of new cases received and the number of cases closed during the fiscal year. From July 2010 through December 2010, the Division received 191 new cases (46.8% baseline) and an average of 32 new cases per month. From July 2010 through December 2010, the Division closed 210 cases (47.3% of baseline) and an average of 35 cases per month.

Action 1.1.1 - Division regularly pulls reports to determine progress and timeliness of enforcement cases.

Action 1.1.2 - The Division's ability to provide program training has been limited by out-of-state travel restrictions, lack of in-state training opportunities, and limited travel and training budgets. The Division does utilize training opportunities available through the other DEP division when training slots are available and when those opportunities are communicated to the Division.

Action 1.1.3 - The Division meets periodically with the other DEP divisions to discuss the progress of enforcement cases. The Division provides reports to the other DEP divisions identifying timeliness issues. Division staff regularly coordinate with compliance and program staff from the other DEP divisions.

Action 1.1.4 - The Division has a regular reporting structure. Due to work demands, the Division has not prepared these reports since August 2009.

Action 1.1.5 - A process has been established between the Acting Director of the Division and the DEP General Counsel.

Tactic 1.2: Resolve enforcement cases in a timely manner.

Measure: The length of time required to draft a case resolution proposal for approval once a case has been assigned to staff.

Baseline: The average time is 49 days to draft a case resolution proposal once a case has been assigned to staff.

Measure: The length of time required to hold a settlement conference after a case resolution proposal has been drafted.

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| | |
|------------------|--|
| Baseline: | The average time is 82 days to hold a settlement conference after a case resolution proposal has been drafted. |
| Measure: | The length of time required to reach an agreement in principle or refer a case to EPLD after a case resolution proposal has been drafted. |
| Baseline: | The average time is 98 days to reach an agreement-in-principle after a case resolution proposal has been drafted, and an average of 167 days to refer a case to EPLD after a case resolution proposal has been drafted. |
| Measure: | The length of time required to draft an agreed order or demand letter once an agreement-in-principle has been reached. |
| Baseline: | The average time is 19 days to draft an agreed order once an agreement-in-principle has been reached, and 6 day to draft a demand letter once an agreement-in-principle has been reached. |
| Measure: | The length of time required to have the responsible party under an executed settlement document once a case has been assigned to staff. |
| Baseline: | The average time is 199 days from case assignment to execution of a DEP agreed order, 143 days from case assignment to mailing of a demand letter, 523 days from case assignment to execution of an EPLD agreed order, and 582 days from case assignment to execution of a Secretary's Order. There is currently insufficient data to determine a baseline for length of time from case assignment to execution of a court decision or a consent decree. |
| Status: | The Division of Enforcement (DENF) is below the baseline for the length of time to draft a case resolution proposal, length of time to hold a settlement conference, length of time to reach an agreement in principle or refer a case to the legal division, the length of time required to draft an agreed order, and the length of time required to have an executed settlement document. The average number of days between case assignment and drafting of a case resolution proposal for all cases created since 01/01/08 is 46 days. These are the averages for the cases created in the following years: 2008 (65 days), 2009 (43 days), and 2010 (27 days). The average number of days between the case resolution proposal being drafted and the settlement conference being held is 86 days. These are the averages for the cases created in the following years: 2008 (122 days), 2009 (83 days), and 2010 (46 days). The average number of days between the case resolution proposal being drafted and an agreement-in-principle being reached is 126 days. These are the averages for the cases created in the following years: 2008 (161 days), 2009 (127 days), and 2010 (71 days). The average number of days between the case resolution proposal being drafted and the case being referred to the Office of General Counsel is 223 days. These are the averages for the cases created in the following years: 2008 (352 days), 2009 (207 days), and 2010 (53 days). The average number of days between the agreement-in-principle being reached |

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and the agreed order being drafted is 19 days. These are the averages for the cases created in the following years: 2008 (23 days), 2009 (21 days) and 2010 (13 days). The average number of days between the agreement-in-principle being reached and the demand letter being drafted is 16 days. These are the averages for the cases created in the following years: 2008 (36 days), 2009 (6 days), and 2010 (6 days). The average number of days between the case being assigned to an executed settlement document is 185 days for demand letters, 239 days for a DEP agreed order, 634 days for an Office of General Counsel (OGC) agreed order, and 634 days for a Secretary's Order.

For case created in 2008, the average number of days was 283 days for a demand letter, 313 days for a DEP agreed order, 634 days for an OGC agreed order, and 634 days for a Secretary's Order. For case created in 2009, the average number of days was 150 days for a demand letter, and 232 days for a DEP agreed order. There was not any data for OGC agreed orders or Secretary's Orders. For case created in 2009, the average number of days was 106 days for a demand letter, and 129 days for a DEP agreed order. There was not any data for OGC agreed orders or Secretary's Orders.

Objective 2 – Provide assistance to Department programs by issuing and tracking compliance with letters of warning and notices of violation.

Tactic 2.1: Facilitate processes for the issuance and tracking of compliance with letters of warning and notices of violation.

Measure: The number of letters of warning and notices of violation issued by DENF per year.

Baseline: From July 2006 through March 2010, the Division issued an average of 5 Letters of Warning per month and an average of 22 Notices of Violation per month. From FY2005 through FY2008, the Division issued an average of 60 Letters of Warning per fiscal year and an average of 264 Notices of Violation per year.

Action 2.1.1: Monitor and report on a yearly basis the number of letters of warning and notices of violation issued by DENF.

Action 2.1.2: Work closely with program divisions to issue letters of warning and notices of violation in a timely and effective manner.

Status: The Division of Enforcement (DENF) is above the baseline for the number of violations issued during the year. From 07/01/10 through 12/31/10, the Division issued 148 Notices of Violation with an average of 25 Notices of Violation per month. The Division has not issued any Letters of Warning in FY2011.

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Action 2.1.1 - From 07/01/10 through 12/31/10, the Division issued 148 Notices of Violation with an average of 25 Notices of Violation per month. The Division has not issue to date any Letters of Warning in FY2011.

Action 2.1.2 - From 07/01/10 through 12/31/10, the Division issued 55 Notices of Violation referred from the DEP central office programs. From 07/01/07 through 12/31/10, the Division averaged 19 days from the violations being referred to the Division to the Notice of Violation being issued. The average was 22 days in 2008, 19 days in 2009, and 19 days in 2010.

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Goal 5



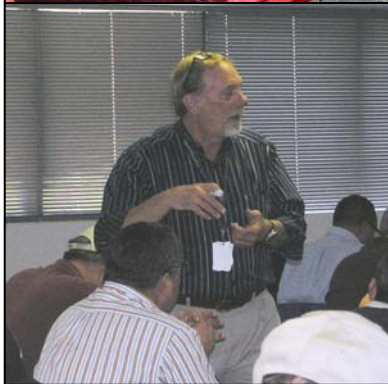
Compliance Assistance and Environmental Stewardship

Promote responsible environmental stewardship.



The Division of Compliance Assistance administers four programs: certification and licensing, brownfield redevelopment, environmental compliance assistance and environmental leadership (KY EXCEL). The division's innovative and important approach to facilitating compliance and excellence is improving the environment for all Kentuckians.

Technical Assistance - *DCA is a technical resource for individuals with environmental questions and needs.* Complying with a very diverse and extensive set of environmental requirements can be difficult. Even committed and experienced environmental professionals face times when they simply need help. DCA maintains a compliance assistance hotline that allows anyone to seek help with an environmental concern.



Education - *DCA is providing Kentucky with the knowledge it needs to care for Kentucky's environment.* In a 2008 survey, more than 3,000 entities regulated by the department were asked what impacted their ability to comply with environmental requirements. Respondents identified a lack of knowledge regarding environmental requirements as one of the greatest barriers to ensuring environmental compliance. DCA's training is equipping front-line environmental professionals with the information they need to succeed in their environmental efforts.



Sustainability - *DCA strives to help all of its clients recognize and implement sustainable behaviors that protect and improve Kentucky's environment.* DCA stands uniquely positioned to partner with Kentucky's corporate and private citizens to proactively build environmental values and facilitate positive behaviors throughout Kentucky. DCA is accomplishing this through partnerships, training, mentoring and technical support.

Stewardship - *DCA strongly believes that the future of Kentucky's environment depends on the stewardship of its citizens.* Every day, people make both large and small decisions in their homes, workplaces and communities that can benefit or harm the environment. DCA is helping these individuals become more aware of the economic and environmental benefits that result from sustainable decisions, so they can make positive choices that are environmentally beneficial.

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Objective 1 - Certify qualified environmental professionals.

Tactic 1.1: Certify and train select environmental professionals to facilitate appropriate actions and operations and increase compliance at regulated locations.

Measure: The number of certification licenses issued annually.

Baseline: In SFY09, the Division of Compliance Assistance issued the following certification licenses:

| | |
|---|------|
| Wastewater Certifications - | 180 |
| Wastewater Certification Renewals - | 1068 |
| Drinking Water Certifications - | 273 |
| Drinking Water Certification Renewals - | 344 |

Action 1.1.1: Process certification applications and administer examinations in an accurate and timely manner to ensure that individuals possess the minimum competencies necessary to properly perform their professional duties.

Action 1.1.2: Conduct a comprehensive review of certification processes to maximize efficiencies through automation and online technology.

Action 1.1.3: Provide accurate and relevant technical training to certified operators and applicants.

Action 1.1.4: Develop and implement a communication strategy that educates the public on the importance of certified professionals and the impact they have on water quality.

Action 1.1.5: Provide administrative support for the Kentucky Board of Certification of Wastewater System Operators and the Kentucky Board of Certification of Water Treatment and Distribution System Operators.

Status: From July 2010 through December 2010, the certification and licensing program issued 255 new certifications and 54 certification renewals were received. The program processed 336 wallet cards and administered 358 certification examinations. We also provided more than 300 hours of training reaching approximately 500 individuals.

The program upgraded its online services by adding the capability for individuals to apply for certification electronically. Previously, operators could check their continuing education hours and register for continuing education courses. This upgrade allows an individual to apply electronically for an examination. In addition, the program added the capability for external training providers to enter their continuing education activity reports (rosters) electronically. The program historically did not use TEMPO for external training requests. During the last few months of 2010 we incorporated these requests into TEMPO for tracking and better reporting.

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The program spent quite a bit of time working with UK to redefine and enhance our training materials and exams. We have redefined the “core” content to be taught during the certification preparatory courses. Examinations will be revised to make sure that the questions are consistent with the new content. The presentations are being modified as well to ensure each trainer could deliver the content in a manner that flows with the manual. After the manuals are formatted by UK and the presentations and exam questions are completed, the next step will be to implement the training assessment component. This will be accomplished by implementing pre and post tests during continuing education events. In addition to the modifications, the program was able to integrate new training techniques into each session. New techniques include the use of response cards and case studies.

The operator-in-training designation revisions did not get incorporated into 401 KAR 11:030 during the February revisions; therefore 11:030 was re-filed to include the OIT designation and went into effect August 5, 2010.

The program continued to provide support to the Kentucky Board of Certification of Wastewater System Operators and the Kentucky Board of Certification of Water Treatment and Distribution System Operators.

One newsletter was prepared and distributed to over 1500 individuals.

The 2011 training schedule was prepared and a training flyer was mailed to all certified operators.

The certification program web pages were completely revamped to update information and to follow the new cabinet format.

The Solid Waste Certification Program was transferred to the Certification and Licensing Branch and will be included in the next update of the strategic plan. The first committee meeting to discuss the transfer of examinations and training materials will take place in January.

Objective 2 - Revitalize Kentucky's communities.

Tactic 2.1: Implement processes that result in the cleanup and beneficial reuse of brownfield properties.

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Measure: The number of brownfield projects undertaken by communities or individuals that involved guidance, services or incentives offered from the division's Brownfield Program.

Baseline: In SFY09, the Division of Compliance Assistance provided services that resulted in the following brownfield projects:

Federal Grant Applications - 13 federal brownfield grant applications were submitted. 3 were awarded for a total of \$600 thousand. The program assisted with 2 CARE grant applications and 1 Smart Growth Assistance grant application – the results are still pending.

Site Assessments - Assessment activities were performed on 9 sites

Property Cleanups - Unknown

Property Revitalizations - Unknown

Action 2.1.1: Continue to identify brownfield sites across the state and provide technical, financial, and visioning services for those wishing to redevelop those properties.

Action 2.1.2: Encourage brownfield redevelopment through education and outreach.

Action 2.1.3: Lead the development of financial assistance tools and public policies that encourage brownfield cleanup and beneficial use.

Status: July through December 2010, the Division of Compliance Assistance provided services that resulted in the following brownfield projects: 11 federal brownfield grant applications were submitted. It is anticipated that the award announcements will be made in April or May 2011. Assessment activities were performed on 18 sites. (9 Phase I's were completed, 7 Phase II's were completed and 2 Phase I were in progress at the end of the period.) The Brownfield program responded to 59 help desk requests and held or participated in the following workshops:

| Event | Approximate Attendees |
|---|-----------------------|
| Regional Brownfield Coordinators Meeting and New Grantees Workshop Grant Writing Renewable Energy and Brownfields Petroleum Brownfield Discussion (Moderator) | 70 |
| Grant Writing Workshops Bowling Green Ashland | 30 |
| 2010 Appalachian Summit World Café (Facilitator) | 100 |

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| Vapor Intrusion Seminar (jointly sponsored by DWM and DCA) | 100 |
| Grant Review Party | 8 |
| Appalachian Coal Country Watershed Team Training Brownfields Appalachian Brownfield Initiative | 60 |
| “Exploring Community Revitalization in Central Appalachia” Conference | 29 |

The Kentucky Brownfield Redevelopment Program hosted the first “Exploring Community Revitalization in Central Appalachia” conference. This participant-driven conference brought together 29 individuals, representing a broad section of stakeholders, including the private sector and governmental and non-governmental agencies. In addition, the program created three new publications on property transfers and outreach for communities, potential buyers, and property owners. To help assess barriers and incentives for redevelopment, the Brownfield program conducted a survey of a diverse group of brownfield stakeholders in an attempt to identify financial assistance tools or public policy changes that could increase brownfield redevelopment in the Commonwealth.

Objective 3 - Help entities achieve environmental compliance.

Tactic 3.1: Implement a multi-media compliance assistance program that enhances environmental performance.

Measure: Changes in environmental knowledge and behavior resulting from compliance assistance activities.

Baseline: In SFY08, the Division of Compliance Assistance received feedback from its clients that indicated the following changes:

Client Response Activities - 72% indicated a change in knowledge
83% indicated a behavior change
Training Activities - No compliance assistance trainings were conducted in SFY09

Action 3.1.1: Provide assistance to entities requesting help with agency related topics, with a special emphasis placed on small businesses and communities.

Action 3.1.2: Proactively offer assistance to entities that have routine or significant compliance problems.

Action 3.1.3: Produce training, reference materials, and interactive tools that increase environmental awareness and performance.

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- Action 3.1.4:** Provide ombudsman services for the public and entities regulated by the Department to ensure that department programs are appropriately implemented.
- Action 3.1.5:** Evaluate the effectiveness of assistance efforts and the methods that produced the greatest positive impact.
- Action 3.1.6:** Increase communication to all stakeholders on the availability of compliance assistance and the benefits of the program.

Status: July through December 2010, the Environmental Compliance Assistance Program (ECAP) responded to 552 compliance assistance requests. 84 of those requests are from known small businesses. 36 assistance requests were detailed which indicate one-on-one permitting assistance or in-depth regulatory or technical assistance. Requests related to water issues remain the dominant category at 44% with wastewater being the primary topic. Air quality and waste requests comprise 31% and 25% respectively. Permitting and regulatory assistance continue to be the two categories representing the majority of assistance requests. ECAP conducted two compliance-based training events: Floodplains, Streams, and Wetlands and Air Quality Reporting and Recordkeeping. In addition, ECAP provided a webinar on NESHAP 6H for DAQ field staff and conducted training at the Western Kentucky Community and Technical College in Paducah. The program continues to work with the University of Kentucky on compliance based projects including: online permit wizard, construction sector compliance guide, water and wastewater sampling guide, internship program, and revision to the Compliance Assistance Tracking System. The online newsletter SNIPS continues to remain the program's primary communication tool with over 1600 subscribers.

Objective 4 - Encourage environmental excellence.

Tactic 4.1: Implement KY EXCEL, an environmental leadership program that recognizes entities for their voluntary commitments to improve Kentucky's environment.

Measure: By primary project category, the number of voluntary projects performed by KY EXCEL members.

Baseline: As of the end of SFY09, 1196 KY EXCEL members had committed to a total of 827 voluntary environmental projects.

| <u>Primary Project Category</u> | <u>Count</u> |
|------------------------------------|--------------|
| Conservation | 28 |
| Education | 133 |
| Mentoring and Technical Assistance | 8 |
| Performance Improvement | 80 |
| Public Health | 10 |

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|--------------------------|-----|
| Research and Development | 30 |
| Resource Efficiency | 123 |
| Resource Support | 85 |
| Restoration | 41 |
| Waste Reduction | 289 |

Action 4.1.1: Increase the number of entities participating in KY EXCEL.

Action 4.1.2: Develop and provide incentives and services to KY EXCEL members in recognition of their voluntary efforts to improve Kentucky's environment.

Action 4.1.3: Clearly communicate the benefits resulting from the voluntary environmental projects performed by KY EXCEL members.

Tactic 4.2: Foster a culture of sustainability.

Measure: Changes in knowledge and behavior resulting from sustainability activities.

Baseline: Baseline not determined.

Action 4.2.1: Develop and provide "green" tools in partnership with organizations, state and local agencies, nonprofit entities and other stakeholders.

Action 4.2.2: Identify and communicate resources and opportunities related to environmentally beneficial actions and the benefits of those activities.

Action 4.2.3: Encourage sustainable and "green" behaviors among Kentucky's businesses, governments, and citizens.

Action 4.2.4: Implement "green" projects to reduce the agency's environmental footprint and to create a positive example for other Kentucky citizens.

Status: The KY EXCEL program has exhibited continued growth. There are currently 216 active members in KY EXCEL. During the first part of FY2010, the program added 13 new members consisting of 9 Advocates, 1 Master, and 3 Partners. During the time period, the program also implemented a membership review process for delinquent members. This process resulted in 17 memberships being closed. As a result of the program's membership, one hundred forty four projects have begun during this period and one hundred sixty eight projects have been completed in the same time period. These projects have resulted in \$257,681 spent, 2,848 hours dedicated, 652 participants in projects. During this time period, the program also began holding operator certification classes that addressed energy efficiency; implemented a project focused on evaluating the whether gas stations can improve performance as a result on in-depth sustainability assistance administered by the division; and launched a state wide challenge encouraging all Kentucky citizens and businesses

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to reduce their energy use, water consumption and waste disposal by 10% over the next 3 years.

Department for Environmental Protection

Goal 6



Environmental Program Support

Improve quality, efficiency and effectiveness of environmental programs and activities through innovative strategies, tools and approaches.

The Department for Environmental Protection involves a range of activities that collectively provide support to ensure decisions made by the department are practical and consistent with the department's mission. These activities provide a foundation to achieve desired environmental benefits in the best interest of Kentucky's citizens.



Assessing the environmental status of Kentucky's air, land and water is important to determine potential threats, evaluate risks and identify solutions to protect the environment and safeguard human health. The department maintains a centralized laboratory that performs analytical sample testing of air, water and soil to determine the nature and extent of pollutants within the Commonwealth. The department also maintains a 24-hour emergency environmental response line for accidental spills and releases of toxic and hazardous material that threaten the environment. The

Environmental Response Team (ERT) responds immediately to environmental emergencies and provides efficient, coordinated and effective action to minimize damage to Kentucky's environment.

Administrative and financial support of information technology enables the department to efficiently manage data in a timely manner. Addressing the technological needs of our environmental management systems is an essential aspect of providing web-based electronic services to the public. Advancement of the department's technology and streamlining environmental response programs will provide the best possible service to Kentucky's local governments and communities.

Improvement in organizational and employee development, quality assurance and workplace safety are important areas to facilitate the accomplishment of the agency's mission and goals. Empowering employees with the tools, knowledge and skills to contribute effectively and efficiently enables employees to achieve long-term sustainable results to protect and enhance Kentucky's environment.

Department for Environmental Protection

COMMISSIONER'S OFFICE (CO)

Objective 1 – Provide adequate training to DEP employees.

Tactic 1.1: Provide training opportunities to DEP employees to increase the employee performance effectiveness.

Measure: The number of formalized training events sponsored by DEP.

Baseline: The baseline will be the number of training events sponsored by DEP in SFY10.

Action 1.1.1: Coordinate the scheduling with USEPA of the Basic Inspector Training Course to ensure that the content is appropriate and current.

Action 1.1.2: Offer the DEP New Employee Orientation program on a monthly basis to all new DEP employees and maintain the manual (and Power Point presentation) to ensure that the content is appropriate and current.

Action 1.1.3: Coordinate scheduling and oversee all Safety Training for DEP employees.

Action 1.1.4: Coordinate scheduling of Cabinet (GAPS) mandatory Supervisor's Training program (includes training on employee relations, enforcement of state/cabinet/department-level policies, etc.)

Action 1.1.5: Assist the Divisions in identification of specialized training needs and provide approval and support for the training.

Action 1.1.6: Partner with agencies and organizations outside DEP to provide environmental awareness training (including but not limited to Earth Day, Governor's Conference on the Environment, and Kentucky Recycling Interest Group).

Status: DEP is working with the USEPA to schedule Basic Inspector Training in Frankfort in 2011. Previous USEPA inspector training classes were held in Frankfort in September 2008, April 2009 and April 2010. The DEP New Employee Orientation program was implemented in 2008 and the orientation class continues to be held monthly. From July to December 2010, eight 8-hour OSHA refresher classes were held (six in Frankfort, one in Bowling Green, and one in Paducah). In July 2010, GAPS provided five training sessions on Performance Improvement Plans and five sessions on Complaints, Grievances and Appeals for DEP managers. Partnerships with ACEC/KSPE continued during 2010. The DEP Quality System Team and the USEPA held Quality Systems training for DEP personnel on February 23rd and 24th.

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Objective 2 – Continue to support and coordinate ongoing department-level programmatic activities.

Tactic 2.1: Identify recommendations that will assist in providing the service and responsiveness required for carrying out the day-to-day activities in the Commissioner's Office.

Measure: Provide recommendations to the Commissioner on an ongoing basis.

Baseline: SFY10 department-level activities.

Action 2.1.1: Coordinate e-clearinghouse and NEPA document reviews.

Action 2.1.2: Coordinate U.S. Army Corps of Engineers Public Notice Reviews.

Action 2.1.3: Coordinate review of Pollution Control Tax Exemption Certificates.

Action 2.1.4: Coordinate special projects including: Wellness Committee, Governor's Conference on the Environment, KECC, March of Dimes, and other department-wide activities.

Action 2.1.5: Conduct an annual review of the department Quality Management Plan and update as necessary.

Action 2.1.6: Oversee and maintain the DEP Motor Pool.

Status: The Commissioner's Office (CO) coordinated 507 e-clearinghouse document reviews from January 1 to June 30, 2010 and coordinated 430 e-clearinghouse document reviews from July 1 to December 31, 2010. The CO coordinated 15 reviews of NEPA documents and other Environmental Assessments from July 1 to December 31, 2010. The CO coordinated 29 U.S. Army Corps of Engineers Public Notice reviews from July 1 to December 31, 2010. The DEP Personnel Administrator continues to participate and provide information to DEP staff on the Commonwealth's Journey to Wellness Program. The Governor's Conference on the Environment was held on October 20 and 21, 2010 in Louisville. From July to November 2010, CO staff coordinated the KECC campaign for DEP. The Quality Management Plan has been revised by the Quality Systems Team with an anticipated finalization date during the first quarter of 2011.

Objective 3 – Develop an effective strategic planning process.

Tactic 3.1: Develop a Department for Environmental Protection strategic plan for SFY11.

Measure: DEP strategic plan development is coordinated by the Commissioner's Office staff and completed at the beginning of the state fiscal year.

Baseline: Strategic plans are finalized in advance of deadlines.

Action 3.1.1: SFY11 Strategic Plans for the Commissioner's Office and each of the six department divisions are finalized by July 1, 2010.

Department for Environmental Protection

Action 3.1.2: Ensure the Department's goals and objectives are compatible with the SFY11 Department budget.

Action 3.1.3: Align the Department's strategic plan with Cabinet's strategic plan.

Action 3.1.4: Publish the mid-year status update to the Strategic Plan in December.

Action 3.1.5: Each division shall publish an annual report by September 1 including results of the Strategic Plan measures and actions for the previous state fiscal year.

Tactic 3.2: Assist staff in understanding their role in the DEP strategic plans by ensuring that employees are clear about the objectives, goals and directions of the agency.

Tactic 3.3: Provide input into USEPA's strategic planning processes at both the national and regional levels.

Status: The development of the DEP Strategic Operational Plan for State Fiscal Year 2011 (July 1, 2010 to June 30, 2011) was coordinated by the Commissioner's Office. The plan was finalized in July 2010 and posted on the DEP internet at www.dep.ky.gov.

DIVISION OF ENVIRONMENTAL PROGRAM SUPPORT (DEPS)

Objective 1 – Recruit and retain qualified employees for positions at DEP.

Tactic 1.1: Identify recommendations that will assist in the hiring and retaining of qualified employees.

Measure: The number of new employees hired and retained on a yearly basis in critical positions.

Baseline: SFY09 hiring for critical positions.

Action 1.1.1: Work with GAPS staff to develop recommendations to present to the Personnel Cabinet to assist in the recruitment and retention of employees (may include promotion in place options and changes to class specifications.)

Action 1.1.2: Increase the promotion of the DEP Scholarship Program at Kentucky universities.

Action 1.1.3: Secure additional funding to provide financial awards (i.e., ERA, ACE, salary increases) to employees that excel in current critical positions where advancement is not available.

Status: On July 1, 2010, DEP had 741 filled full-time positions and 7 filled time-limited positions. On January 4, 2011, DEP had 724 filled full-time positions and 7 filled time-limited positions. The DEP personnel cap for FY11 is 766 with 9 time-limited positions. DEP continues to fill critical vacant positions subject to budget constraints. DEP

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currently has one student in its Scholarship Program and the student is sponsored by the Division of Water. Since the program began in 1991, the DEP Scholarship Program has sponsored 58 students. DEP did not participate in any Kentucky university career fairs during Fall 2010. Due to budget constraints, ACE and ERA Awards were suspended in SFY09, SFY10 and SFY11. DEP will be holding an Employee Awards Program on January 21, 2011 to recognize outstanding employees and employee units (branch, section or program) for Calendar Year 2010.

Objective 2 – Provide technical, personnel and administrative support for DEP IT-Based Systems (TEMPO/SWr3/KWIMP).

Tactic 2.1: Produce weekly TEMPO Reports for DEP Commissioner's Office that are timely and accurate.

Measure: Weekly submission of reports to the Commissioner's Office.

Baseline: Weekly Reports submitted.

Action 2.1.1 Train appropriate Division staff to produce and format reports.

Action 2.1.2 Designate and train appropriate Division staff for back up.

Tactic 2.2: Provide TEMPO/ SWr2/KWIMP Database Support.

Measure: Successful completion of tasks on IT Project List.

Baseline: July 2010 IT Updated Project List.

Action 2.2.1: Completion of requested reporting modules.

Action 2.2.2: Support ALAWADR for COMPASS replacement.

Action 2.2.3: Provide timely TEMPO Help Desk Support.

Action 2.2.4: Create web-based enhancements for TEMPO, including on-line permit applications and license/certification renewals in accordance with allocated SFY11 budget.

Action 2.2.5: Adhere to Federal Database Guidelines and modifications (SWr2).

Tactic 2.3: Meet goals of USEPA grant-based projects on time and on budget.

Measure: Successful completion of funded projects.

Baseline: Submission and acceptance of semi-annual and annual reports to and by USEPA.

Action 2.3.1: Complete "Better Use of Technology" STAG grant requirements as noted in project plan.

Action 2.3.2: Complete "PCS-ICIS" grant requirements as noted in project plan.

Action 2.3.3: Complete "Node 2 Upgrade" Exchange Network grant requirements as noted in the project plan.

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Status: For TEMPO reporting, the training document has been created and appropriate division staff has been trained. A backup person has been trained and is creating reports as needed. DAQ's NEI data flow has been upgraded to the newer CERS flow in order to allow modernized electronic transfer of collected air quality data. DEP IT staff designed and created on-line document retrieval capabilities and added it to KYDEP's eSearch for public internet searching and provision of public documents. ALAWADR has been evaluated as a replacement for COMPASS and DEP has selected KWADE (KY version of ALAWADR). The project has been handed to DOW IT for management and implementation. Department IT will provide servers, database allocation and administration. Timely TEMPO Help Desk Support is ongoing. Several DCA public eForms were added to KYDEP's ePortal to make it easier for the public and the regulated community to access services and information. New ePortal screens for Water Withdraw were designed and written. DEP upgraded to the new ePay system and redesigned the integration with KYDEP's ePortal to allow the public and regulated community to submit various KYDEP related payments and fees on-line via electronic transfer of funds through secure socket layer. SWr3 has been placed on hold by USEPA. Project management and implementation handed SWr3 to DOW IT. The federal CROMERR Application was submitted prior to deadline. Modifications to the initial application were submitted in December 2010 to allow for inclusion of new technological processes and procedures. DEP is currently waiting for comments and initial approvals from USEPA.

Objective 3 – Continue to Support and Coordinate Ongoing Programmatic Activities.

Tactic 3.1: Identify recommendations that will assist in providing the service and responsiveness required for carrying out the day-to-day activities in the DEPS.

Measure: Activities performed and coordinated in SFY11.

Baseline: SFY10 activities performed by staff in the DEPS. (IT activities are identified in Objective 2 above.)

Action 3.1.1: Coordinate the activities of the Environmental Response Team (ERT) to effectively respond to environmental incidents.

Action 3.1.2: Obtain satellite communications to enhance the Department's communication capabilities.

Action 3.1.3: Develop and implement the Department Emergency Operation Plans.

Action 3.1.4: Develop and maintain an ERT Personal Protective Equipment (PPE) Program.

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- Action 3.1.5:** Develop and maintain a Department Continuity of Operations Plan (COOP).
- Action 3.1.6:** Develop and maintain an Environmental Response Branch Response Coordinator Handbook.
- Action 3.1.7:** Develop and maintain an Environmental Response Center Guidelines.
- Action 3.1.8:** Develop and maintain a State On-Scene Coordinator (SOSC) Handbook
- Action 3.1.9:** Develop and maintain a Drinking Water Emergency Response Plan.
- Action 3.1.10:** Develop and execute a Department Emergency Exercise.
- Action 3.1.11:** Coordinate all DEP facilities issues including maintenance, department services (phone, janitorial, trash, security, internal mail delivery, uniforms, vehicle inventory), and office relocations.
- Action 3.1.12:** Coordinate DEP budgetary activities including submission of annual operating budgets, the biennial budget, proposed Capital Construction projects, and the quarterly contract workers report as required by HB 387 of the 2010 Regular Session.
- Action 3.1.13:** Review and develop Memoranda of Agreement (MOAs) and Personal Service Contracts (PSCs).
- Action 3.1.14:** Coordinate personnel activities including the DEP scholarship program and EEO/ADA activities.
- Action 3.1.15:** Provide technical advice concerning appropriate laboratory analytical methods and techniques.

Status: The Environmental Response Branch coordinated 217 incident responses from July 1 to December 31, 2010. There were two natural disasters in calendar year 2010 including the flooding in May that caused many releases of hazardous materials all across Kentucky. The July 2010 flooding in Pike County washed out a drinking water plant, drinking water lines, septic systems and sewer lines, and caused many hazardous material containers to be washed into the streams. ERT and USEPA conducted a hazardous material container recovery in Pike County. The Department Operations Center has been established and is in full operation. The final phase of the Operations Center plan is to secure funding for the purchase and installation of an emergency generator. The Environmental Response Team (ERT) added two additional regions in 2010, which brought the total number of regions to ten and the number of full time responders to 31. This helped ERT match the regional office layout of the Division of Water and the Division of Waste Management, reduced the response time to an incident, and improved safety for responders by not having to drive long distances to an incident. The purchase of additional satellite phones has been delayed to July 1 to December 31, 2011 due to other equipment needs from the addition of the two response regions. The Department Emergency Operations Plan is in development with a revised due date of June 30, 2011. ERT completed a Joint-Mobile Command Post with the Kentucky Department of Transportation

Department for Environmental Protection

allowing ERT to split costs with another agency while having the capability to coordinate DEP resources on two large incidents.

DEPS staff continues to coordinate all DEP facilities issues including maintenance, and department services (phone, janitorial, trash, security, internal mail delivery, uniforms, and vehicle inventory). The contract with ISS for janitorial services at the 150, 200, and 300 Fair Oaks buildings was renewed in December 2010. The contract with National Work Wear for the department's safety shoes was renewed in October 2010. New copiers were leased and installed throughout the department for a cost savings with the new contract with Ricoh. The department decreased its number of vehicles - eight vehicles were sent to Finance for surplus and thirteen vehicles were sold and transferred to the Department of Housing, Buildings and Construction.

The divisions completed their FY11 operating budgets and submitted them to the GAPS budget office in July 2010. The department completed impact statements for a 1.5% general fund and restricted fund additional spending reduction in July 2010. The divisions completed estimates of contractor furlough savings in November 2010 and completed the contract workers report for the first two quarters of FY11 at the beginning of October 2010 and January 2011. The medical monitoring university agreement was renewed for FY11 with the University of Kentucky in June 2010. The scholarship program university agreement for FY11-12 was renewed in July 2010. The divisions completed the FY10 closing package forms and submitted them to the GAPS Fiscal Management in July and August 2010.

The Personal Service Contract for FY11 for the OSHA Training contractor was completed in FY10. The IT software maintenance contract for FY09-11 with CGI was completed in FY09. DEPS staff, primarily the DEP Personnel Administrator, continues to coordinate personnel activities. The hiring of summer students during the summer of 2010 was suspended due to funding cuts.

The Environmental Services Branch in DEPS continually provides field staff and department personnel with technical advice concerning laboratory methods and techniques.

Objective 4 – Provide accurate and defensible chemical analytical services to the program divisions of the Department for Environmental Protection.

Tactic 4.1: Analyze environmental samples collected by the Air Quality, Water and Waste Management Divisions for chemical constituents.

Measure: The number of environmental samples analyzed each year.

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Baseline: In calendar year 2009, there were 5894 samples analyzed by the Environmental Services laboratory.

Action 4.1.1: Provide testing services for samples in accordance with the allocated SFY11 budget.

Action 4.1.2: Maintain an average turn-around-time of less than 28 days for samples submitted beyond July 1st, 2010. In 2009, the average turn-around-time for all samples was 26.9 days.

Measure: The number of individual tests performed by the Environmental Services laboratory.

Baseline: In calendar year 2009, there were 33,458 individual tests performed by the Environmental Services laboratory.

Action 4.1.3: Provide individual testing services in accordance with the allocated SFY11 budget.

Measure: The number of individual chemical parameters reported by the Environmental Services laboratory.

Baseline: In 2009, there were 323,243 individual chemical parameters reported by the Environmental Services laboratory.

Action 4.1.4: Provide chemical parameter reporting to meet department needs.

Tactic 4.2: Maintain accreditation by USEPA and the National Environmental Laboratory Accreditation Program (NELAP).

Measure: Accreditation status of the Environmental Services laboratory.

Baseline: Currently, the laboratory is certified as the State Principal Laboratory for Drinking Water by USEPA. In July 2007, the New Hampshire Department of Environmental Services granted the laboratory NELAP accreditation. Continuing accreditation status is dependent on successful ongoing participation in the NELAP program.

Action 4.2.1: Participate in a minimum of 2 Proficiency Testing (PT) studies approximately 6 months apart.

Action 4.2.2: Pass 2 out of the last 3 consecutive studies to maintain accreditation for that analyte/method.

Action 4.2.3: Secure funding that will pay for the fees so that accreditation can be maintained.

Action 4.2.4: Review Environmental Services Laboratory analytical and administrative SOPs and Laboratory Operations and Quality Assurance Manual (LOQAM) annually and update as necessary.

Tactic 4.3: Upgrade the analytical instrument base of the Environmental Services laboratory.

Department for Environmental Protection

Measure: The analytical capacity and dollar value of new and replacement instrumentation.

Baseline: The Environmental Services lab maintains a major analytical instrument inventory with a baseline dollar value in excess of \$2 million.

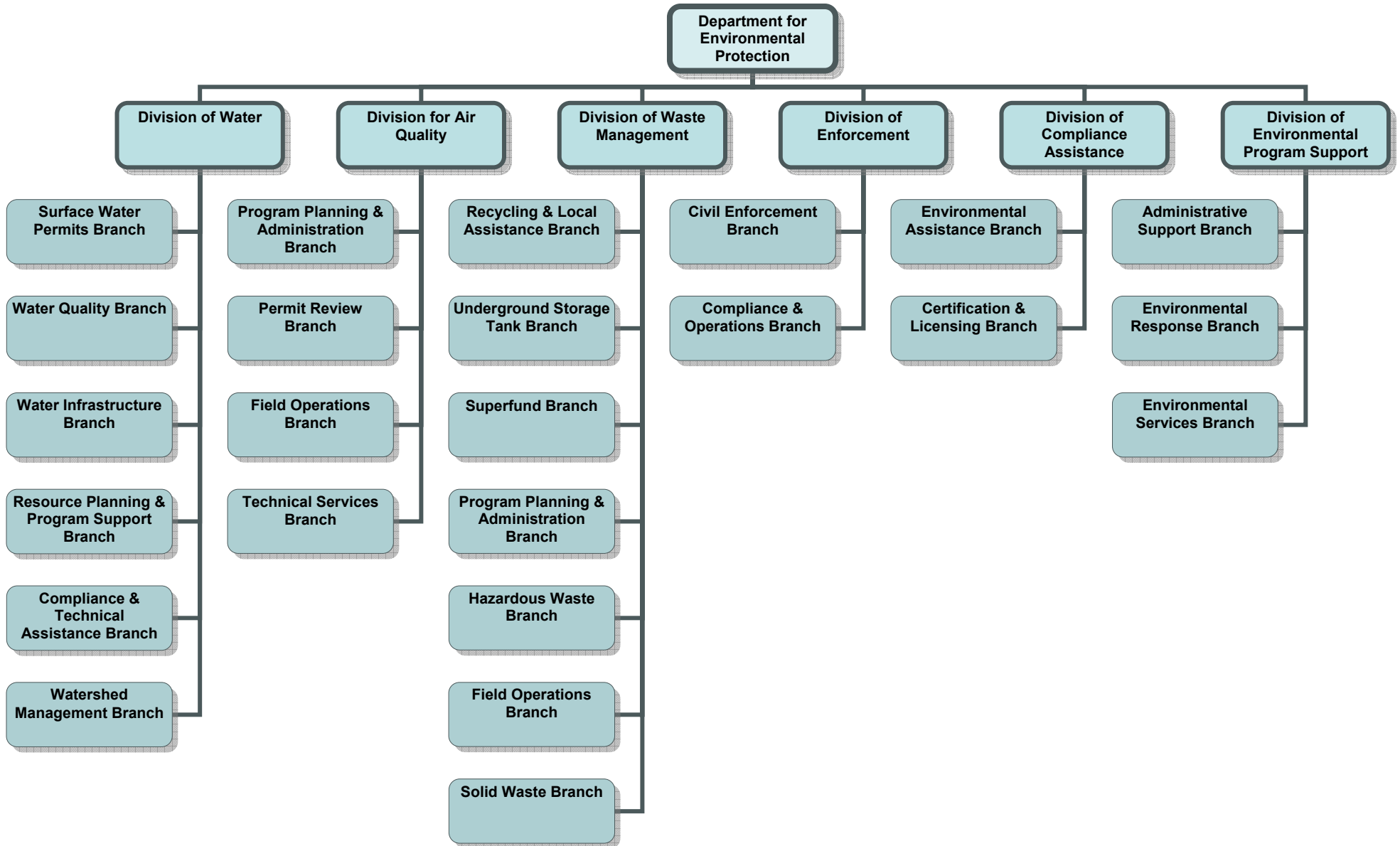
Action 4.3.1: Secure additional funding that will allow replacement of old or outdated equipment and instruments.

Action 4.3.2: Secure additional funding that will allow purchase of equipment that utilizes new technologies to meet the department's changing program needs.

Status: The Environmental Services Branch (ESB) continues to provide testing services for all the divisions in accordance with the allocated SFY11 budget monies. As of December 31, 2010, the number of samples analyzed was 6,076 for the calendar year 2010 and the average turn-around time was 23.1 days. As of December 31, 2010, the number of tests performed was 31,819 for calendar year 2010 and the number of chemical parameters provided was 290,824. ESB continues to participate in the number of proficiency tests that are needed to maintain accreditation under USEPA and NELAP programs. In calendar year 2010, ESB submitted 1535 analytes and received a passing grade of 93.7%. DEPS secured funding for an Inductively Coupled Plasma metals analyzer (\$82,350) and PC Titration instrument (\$61,099) in calendar year 2010.

APPENDICES

Department for Environmental Protection



Department for Environmental Protection

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